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**DIRECTORATE OF ECONOMICS AND STATISTICS
MINISTRY OF AGRICULTURE, GOVERNMENT OF INDIA**

**AGRICULTURAL LEGISLATION IN INDIA
Vol. II.—CONSOLIDATION OF HOLDINGS**



**ISSUED BY THE
ECONOMIC AND STATISTICAL ADVISER
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1950

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PREFACE

An attempt is made in this brochure to bring together all the existing legislation on the consolidation of holdings in different States as on January 26, 1950. It is hoped that a comparative study of the different Acts will suggest lines on which further reform needs to be undertaken.

The detailed work in the preparation of this Brochure has been done in the Land Economics Branch of the Directorate by Shri Dharam Bir Singh under the supervision of Shri M. S. Menon. Any views expressed in the Introduction should not be taken as the views of the Government of India.

W. R. NATU
ECONOMIC AND STATISTICAL ADVISER.

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*This repeals the Patiala Consolidation of Holdings Act, 2004.

CONSOLIDATION OF HOLDINGS

INTRODUCTION

Need For Legislation. One main reason for the poor productivity of Indian agriculture and the low income of the large majority of farmers is the small size of the individual production unit and the consequent uneconomic methods of cultivation. The problem has two aspects: the holdings are not only getting smaller in size due to constant sub-division, but each individual holding is tending to get dispersed in a number of fragmented plots too small for profitable cultivation. The evil has tended to grow with every increase in population and the failure of secondary and tertiary industries to expand in proportion. The prevailing law of inheritance and succession has provided every facility for quickening the process. In certain areas the very existence of a vigorous village community, organised more or less like the Russian Mir, with strong emphasis on distributive justice, was itself a factor which made for fragmented cultivation. The practice of *Lakha-bata*, for instance, which prevailed in the Chattisgarh Division of Madhya Pradesh, was a device for ensuring that each cultivator got a share of the different kinds of land by periodical re-distribution.

Almost all enquiries made into land holding have tended to indicate the rapid pace at which the process has been going on practically throughout the country. The evidence collected by the Famine Inquiry Commission (1945) shows that this trend is present in almost all the States in varying degrees of intensity. In the Punjab, the investigation conducted by the Punjab Board of Economic Enquiry showed that the number of holdings below 3 acres increased from 43.4 per cent of the total holdings in 1928 to 48.8 per cent in 1939.* In Madras, while *pattas* paying Rs. 10/- and less formed 69.5% of the total number about twenty years ago, they amounted to about 87.65% at the time of the Famine Inquiry Commission. Dr. Mann, in his survey of a typical village in Poona district in the Bombay State, has shown that the average holding shrunk from 40 acres in 1871 to 7 acres by 1914-15. According to the the Hyderabad Agrarian Reforms Committee (1949), the average size of holdings had decreased from 23 acres in 1880 to 14 acres in 1945-46. In Uttar Pradesh, the figures, calculated by Major Erskine in 1880, the U. P. Provincial Banking Enquiry Committee in 1929 and the estimates arrived at by the Zamindari Abolition Committee in 1948, also bear out the same trend.

The distribution of holdings according to size in the different States tend to show that a very large percentage of holdings is below 5 acres.

Distribution of Holdings according to size

| | Madras@ | Punjab@ | U.P@ | Ben gal@ | Bom bay | My score% | Assam * | Orissa£ |
|---|---------|---------|------|----------|---------|-----------|---------|---------|
| Average size of holding (acres) | 4.5 | 10.0 | N.A. | 4.4 | 13.3 | 6.2 | 4.8 | 4.9 |
| Percentage of number of holdings under 5 acres to the total | 82 | 63.7 | 81.2 | 71.3 | 41.9 | 65.9 | 66.4 | 79.2 |
| " under 10 acres | 89 | 80 | 93.9 | 88.3 | 60.9 | 86.7 | 87.4 | 89.5 |
| " under 15 acres | N.A. | 87.9 | N.A. | N.A. | 72.5 | N.A. | N.A. | 94.3 |
| " under 25 acres | N.A. | 93.7 | 99.1 | N.A. | 85.2 | N.A. | N.A. | 97.8 |

@ Report of the Rural Banking Enquiry Committee Para 30.

£ Report of the Land Revenue Revision Committee 1950.

* A Survey of Rural Economic Conditions in Darrang 1950.

£ Report of the Land Revenue and Land Tenure Committee 1949 Appendix IX.

* Report of the Famine Inquiry Commission (1945) P. 256

The results of the Agricultural Labour Enquiry conducted recently in certain villages in the States of Madras, Bihar and West Bengal show that the largest percentage of holdings is below 2 acres.

A greater evil than sub-division is the fragmentation of holdings into small separate plots. This is a direct result of partition and the insistence of each co-sharer on getting plots in each type of soil area. It was reported in a Punjab village@ that the lands were divided into 1,898 fields averaging 1/5th of an acre, and 2,890 holdings had each over three fields. In another village, 12,800 acres were found to be scattered in 63,000 fields. The average size of plots in some districts of Bihar was found to vary between 0.28 acres and 0.81 acres at the time of the last settlements. The position is not very much better in other States. Thus, it was reported that in the Chattisgarh division of Madhya Pradesh, it was common to find an average holding of ten to twelve acres scattered all over the village in no less than 30 to 40 small plots of land. * In Bombay and Assam, there were on an average 3.3 and 4.5 plots to every holding. In Ajmer, the number of plots per holding varies from 3.3 to 3.5.

The small size of the operating unit in agricultural production has been the biggest single factor which has impeded good cultivation. It has increased overhead costs, resulted in un-economic utilisation of human, cattle and material resources, checked improvement, and in many areas thrown land out of cultivation. The existence of a very large number of farms of the wrong size and shape has been an important reason for the uncertainty in production and instability in prices, which is a characteristic feature of agricultural industry.

The remedies tried. Various attempts have been made by Government and private agencies to check sub-division and fragmentation and effect consolidation of scattered holdings. Some consolidation work is reported to have been done in Madhya Pradesh by the *malguzars* (landlords of the area) in their home-farm area irrespective of Government help. * This was, however, never liked by the tenants, who considered it as a device of the landlord to dislodge them from their holdings.

Some indirect attempts to assist the consolidation of holdings were made by Government at the time of settlement operations, but such attempts were fitful and were discontinued. Mere refusal to recognise survey numbers of less than a certain minimum extent fixed from time to time for different classes of land under the land Revenue Code, as was tried in Bombay, has been of little consequence in checking sub-division of holdings. The law courts tended to freely recognise such sub divisions, and Section 98 of the Bombay Land Revenue Code had, therefore, to be repealed. The same device was tried in Baroda also. As a result of the recommendations of a Committee set up in Baroda in 1917 to report on the question, the Land Revenue Code was amended, laying down a restriction by which *Jarayat* land could not be divided below 8 bighas, *Bagayat* land below 3 bighas, and *Kyari* land below 1½ bighas. In Bhopal, the fields below 5 acres are not permitted under Section 188 of the Land Revenue Code. In Madhya Bharat, fields below 15 acres are not partible under the tenancy legislation. Restrictions on alienations and partitions adopted in some of the States have, no doubt, had some deterrent effect on sub-division. But in most cases desired results could not be produced on account of the very limited scope of such measures.

@ Survey of Bairampur village published by the Board of Economic Enquiry, Punjab.

* Manual of Instructions on Consolidation of Holdings in the Central Provinces.

Somewhat better results, however, seem to have been achieved by voluntary methods of consolidation under the co-operative aegis in a few States. The Punjab has led the way in voluntary consolidation. In 1947-48, the membership of consolidation of holdings co-operative societies in the Punjab exceeded 2,00,000 and consolidation operations resulted in the reduction of blocks from 18.24 lakhs to 2.86 lakhs. Till 1947-48, consolidation operation had been completed in 1,552 villages out of a total of 21,881. The experiences of other States in this direction have not been so successful. In U. P., however, there were in 1948-49, 422 consolidation societies and the area consolidated by this means amounted to 13,851 acres. There were 53 societies in Delhi at the end of the year 1947-48 and the area offered for consolidation in this manner amounted to 64,165 acres. The pace of consolidation under voluntary co-operation has, however, been very slow, and even in the Punjab, agitation for more drastic measures, especially since the advent of the popular government in 1947, has been so persistent that a new Act, more compulsory in character, has had to be passed in 1948 and the work of carrying out consolidation handed over to a new Department set up for the purpose.

Brief history of legislation on consolidation. The need for legislation to speed up consolidation was felt early, and a number of authorities advocated measures to combat the evil on the lines of Japanese experiments and legislative measures in other countries. In 1911, the Madras Government considered the question of restriction of sub-division of holdings below a fixed minimum but came to the conclusion that there were weighty reasons against making any attempt in this direction. Mr. G. Keating, in his book 'Rural Economy in the Bombay Deccan', drew attention to the acuteness of the problem and the necessity of taking measures to check its growth. In 1916, a resolution was tabled in the Bombay Legislative Council calling attention to the necessity of checking small size and scattered holdings, but it failed to carry the majority. In 1917, the All-India Board of Agriculture drew the attention of the local Governments to the problem and recommended close investigation in consultation with the Registrars of Co-operative Societies with a view to adopt necessary remedial measures to suit local conditions. In 1927, the Bombay Small Holdings Bill was discussed, but had to be withdrawn. The Report of the Royal Commission on Agriculture also emphasised the importance of undertaking surveys and checking further deterioration.

Legislation in India has passed through three stages. In the first phase, it was wholly permissive and merely tried to facilitate transfers and exchanges by giving some concessions and the help of the trained staff. The Baroda Act of 1920 was of this nature. In the Punjab and U. P., while no specific legislation was passed, co-operative societies registered under the Co-operative Societies Act of 1912 were encouraged to take up consolidation work with the help of the staff under the Co-operative Department, and the work was entirely voluntary.

In the second stage, an element of compulsion was introduced. The C. P. Consolidation of Holdings Act 1928, authorised the consolidation officers to confirm a scheme of redistribution of holdings, when not less than one half of the permanent holders, holding not less than two-thirds of the occupied area, agreed to it. Such a scheme would be binding on all the permanent rightholders and their successors in interest. If, however, this percentage did not agree, no compulsion could be applied. The Punjab Consolidation of Holdings Act¹ 1936 (now repealed and replaced by another Act), was based on the same principle. In Uttar Pradesh, an order of consolidation can be passed after meeting the objections as far as possible, if holders of one-third of occupied area apply for it.

1 This Act is still in force in Delhi State.

The third approach involving undiluted compulsion consists in enforcing a scheme of consolidation in any given area without regard to the willingness or otherwise of the landholders of the locality. The first attempt to prevent further sub-division and fragmentation on these lines was made in 1927 in Bombay. The first part of the Bombay Small Holdings Bill proposed to lay down, according to local conditions, a standard unit being the minimum extent that could be cultivated profitably as a separate plot. This Bill aimed at stopping further sub-division of old fragments and creation of new ones and promoting consolidation of holdings so as to create profitable holdings. The time was, however, not ripe enough for such a measure, and the Bill had to be dropped.

With the assumption of power by popular ministries however, the question was revived and vigorous legislative action in the direction has been initiated. The Bombay prevention of Fragmentation and Consolidation of Holdings Act, 1947, authorises the Government to fix and determine, in relation to any local area and the class of land, the extent that can be cultivated profitably as a separate plot, which is called the "standard area". Any part of land below the appropriate standard area is defined as a 'fragment'. On notification of the standard area, all fragments have to be entered as such in the Record of Rights or the village Record. Transfer or lease of such fragments is prohibited except when they become merged with a contiguous survey number or a recognised sub-division of a survey number. Any transfer or partition of any land which will create a fragment is prohibited. The same act empowers the Government to undertake the consolidation of scattered holdings in any area. The Punjab (Consolidation and Prevention of Fragmentation) Act 1948 is very largely based on the Bombay Act.

Present Legislation The legislative measures taken so far for effecting consolidation of fragmented holdings and for preventing the recurrence of the phenomenon may be considered from the point of view of the method adopted for attaining the objectives and the extent of the problem which the Acts aim to cover. The methods adopted are either permissive in character relying mostly on the initiative of the persons of the locality, termed variously as "owners", "Permanent Holders", "Cultivators", etc., in the different Acts, or they may be compulsory, the procedure for the purpose emanating from the local government. The former class of measures may also contain a very limited degree of compulsion, which, however, is confined generally to overcoming the obduracy of any small minority who may seek to obstruct the application of the measure. The Acts, again, may address themselves only to the consolidation of existing holdings, leaving the possibilities of further fragmentation in future untouched, or they may be more comprehensive in scope. Among the former class, belong the earlier Acts, viz., the old Baroda Acts and the Consolidation of Holdings Acts passed in the Madhya Pradesh and Uttar Pradesh in 1928 and 1939 respectively (C. P. Act No. VIII of 1928 as amended and U. P. Act VIII of 1939). The Bombay Prevention of Fragmentation and Consolidation of Holdings Act. (Act No. LXII of 1947), the East Punjab Holdings (Consolidation and prevention of Fragmentation) Act (Act No. L of 1948) and the proposed Hyderabad Bill belong to the class of legislation which is more comprehensive in its scope and obligatory in its application. Both these types of Acts, however, do not directly provide for the creation of economic holdings, but only for making existing holdings more compact. The Bombay, Punjab and the proposed Hyderabad Acts provide for the laying down of "Standard areas" in notified localities which could be cultivated profitably as separate plots and the prohibition of land in such areas below the prescribed minimum. By declaring holdings below the "standard area" as "fragments", prohibiting

the transfer or partition of land in notified areas so as to create "fragments" and giving the right of pre-emption to owners of contiguous plots in case of sale of such "fragments", the Acts are expected eventually to result in the creation of holdings of more economic size.

Scope of the Acts. The Central Provinces Consolidation of Holdings Act, 1928, being the first measure of its kind, is drafted on cautious lines and was to be applied in the first instance only to Chattisgarh Division, every further extension being subject to the issue of notification, which has to be laid before the Legislative Council. Under Section 6 of the Act, two or more permanent holders having not less than a certain minimum area of land (generally 100 acres of land), are considered to be genuine applicants for consolidation under the Act. The U. P. Act provides initiation of consolidation proceedings under Section 3 on the application of the proprietor of a village or mahal, or the lambardar, or cultivators of more than onethird of the cultivated area of a village, and under Section 6, by the collector. Under the Bombay Act, the initiative comes from the Government, which notifies its intention to make a scheme for consolidation of holdings in a particular area. In the Punjab Act, 1948, consolidation proceedings can be instituted either by the government on its initiative or on application made by owners in this behalf.

Compulsory Feature. The class of persons whose holdings come under the scope of the Acts are variously described under the various Acts. Under the Madhya Pradesh Act, such a person is termed a "permanent holder" and the persons entitled to be called permanent holders under the various types of tenure are given under Section 5 of the Act. A thekedar with protected status is deemed the proprietor of *sir* and *khudkasht* land held by him. The U. P. Act covers persons who are termed as "Cultivators". A "cultivator" is defined as a person other than a sub-tenant or a tenant of *sir*, who cultivates a holding and includes a person who has leased the whole or any part of his holding to a sub-tenant or a tenant of *sir* [Sub-section (6) of Section 2]. Unlike the C. P. Act, however, a thekedar's holding is not included under the definition of a "Cultivator's holding". The Bombay and the Punjab Acts use the term "owner" who is defined as the occupant in the case of unalienated land and the mortgagor in case such land has been mortgaged, and in the case of alienated land, the superior holder.

The element of compulsion in securing consolidation is contained in sub-section (2) of Section 6 in the Madhya Pradesh Act and under sub-section (3) of Section 3 in the Jammu and Kashmir (consolidation of holdings) Act (1940). Under the Madhya Pradesh Act, if not less than one-half of the permanent holders in a village, mahal or patti, holding not less than two-thirds of the occupied area in the village, mahal or patti, apply for a scheme of consolidation and the scheme is confirmed, it shall be made binding on all the permanent holders of the area. The corresponding proportion in the Jammu and Kashmir Act is two-thirds of the landowners, holding not less than three-fourths of the cultivated area in an estate or sub-division of the estate. The Bombay and the Punjab Acts give the power to the Government to notify any area in which it desires to prepare and enforce a scheme for consolidation of holdings.

The machinery for consolidation. The Madhya Pradesh Act, the Jammu and Kashmir Act and the Punjab Act make provision for enlisting public opinion in support of the scheme. The C. P. Act gives power, under section 29, to the Local Government to make rules providing for the constitution of an advisory committee or panchayat to assist the consolidation officer in the examination or preparation of the scheme. A similar provision exists in the

Jammu and Kashmir Act under Section 6. The Punjab Act of 1948 makes it incumbent on the Consolidation Officer to obtain the advice of the landowners of the estate or estates concerned in preparing a scheme for the consolidation of holdings in such estate or estates or part thereof (sub-section (2) of section 14). The repartition of the estate or estates is also to be made after obtaining the advice of the landowners concerned.

Under the Acts, the State Governments have invested Consolidation Officers with powers to carry out schemes of consolidation. A special staff of *amins* and *patwaris* is created to assist him. No civil court can entertain any suit or other proceedings instituted with respect to any matter arising out of consolidation proceedings. Appeals against the decisions of the consolidation officers can be carried to Collector, or Settlement officer or the State Government, as provided under the Acts.

Procedure. The procedure for consolidation of holdings after a scheme has been initiated, is much the same under the different Acts. A brief account of the method of operation in the Madhya Pradesh may, therefore, serve to indicate the general procedure followed for effecting consolidation of holdings.

The applications for consolidation may or may not in the first instance be accompanied by agreed schemes of redistribution. A date is fixed for examination of the application and intimation is sent to all the permanent holders of the village through proclamation. If the signatories make up the statutorily required number and are prepared to pay the cost, the application is admitted and the Consolidation Officer proceeds to draw up a scheme of redistribution. After this, a panchayat representing different interests and castes is formed. These panchayats help the officer carrying out the scheme, especially in checking estimates of productivity and the fertility of the soil, giving opinion about individual allotments, etc. Their duties are mainly advisory.

In the first stage, the village land is divided into different blocks according to the productivity of the soil, and holdings of similar productivity are exchanged where possible. Equal areas are brought together in three grades, Superior, Medium and Inferior, and are entered in one corner of the map. Valuation of fields in annas is recorded on the map. Consent of the the Landowners is obtained to this valuation.

In the second stage, the individual holdings are traced out according to the above classification and attempt is made to give each cultivator, land suitable for the principal crops grown in the village. The valuation of the holdings allotted to him is equal to the valuation of his original holdings. If, however, it is impracticable to allot land in this way, the cultivator who gets land of higher value is required to pay compensation to the person who is affected adversely.

In the third stage, the possession is redistributed and the holders are allowed to take over new plots from an agreed date or from the beginning of the new agricultural year. The new holdings carry the same rights and privileges, as also the mortgages, liens and encumbrances as were attached to the original holdings. The holder of a mortgage, lien or encumbrance can seek compensation. No scheme is finally confirmed till the question of compensation is settled.

Costs of consolidation are calculated in a prescribed manner and sometimes the whole of it is recovered from the right-holders whose lands are

consolidated on the basis of acreage or rental value. Generally, however, only a part of it is recovered, the rest being borne by the State Government. In the Punjab, it can be remitted for certain areas. The Bombay prevention of Fragmentation and Consolidation of Holdings Act contains a very salutary provision, by which taccavi loans under the Land Improvement Loans Act 1883 and Agriculturists' Loans Act 1884 are admissible for the purposes of this Act.

The items under cost and compensation are recoverable as "arrears of land revenue" and are required to be deposited in the courts in the first instance.

Inducements offered. For the purpose of giving effect to any scheme of consolidation, the rights of owners are transferable by exchange or otherwise and no court fees or registration charges are required for this purpose. In most states, the individual right-holders are given certificates of transfer defining their rights in the new lands. Under the Punjab Act (1948) no instrument in writing is necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings and no instrument, if executed, shall require registration. In Travancore, concessions in income-tax are given in respect of income from lands which have been consolidated. The Famine Inquiry Commission (1945) has recommended that, besides the concessions given in respect of stamp duties and registration charges, fees for encumbrance certificates may be waived and land revenue remitted for one year.

Measures to prevent recurrence of the problem. Consolidation in itself offers no permanent remedy and the problem is likely to recur every generation, or even earlier, unless restrictions are placed on future partitions, exchanges or transfers. On this account some states have not regarded mere consolidation alone as worth-while. Unless the problem is checked at the root, or at least the existence of small fragments is controlled, no lasting solution of the problem is possible. This approach has now been accepted in Bombay, Punjab, Uttar Pradesh* and Berar.

The Bombay Prevention of Fragmentation and Consolidation of Holdings Act 1947 makes it illegal to create a fragment of less than the standard size notified for a particular area. Under this Act, the State Government has, however, powers to fix and determine in relation to any local area and the class of land, the extent that can be cultivated profitably as a separate plot, which is called the 'standard area'. Any part of the land below the appropriate standard area is defined as a fragment. On notification of the standard area, all fragments have to be entered as such in the Record of Rights or the village Record. Transfer or lease of such fragments is prohibited, except when they become merged with a contiguous survey number or a recognised sub-division of a survey number. Any transfer or partition of any land which will create a fragment is prohibited. Contravention of this rule renders the transfer or partition void and makes the owner liable to a fine not exceeding Rs. 250/-. Courts are also prohibited from permitting partitions which result in the creation of a fragment. If no suitable buyer of contiguous survey number is available, the fragment can be transferred to the State on payment of compensation to the owner. The State Government or the local bodies are further prohibited from acquiring or selling lands which leave a fragment. The East Punjab Holdings (Consolidation and prevention of Fragmentation) Act 1948 is on the same lines.

* Under the U. P. Zamindari Abolition and Land Reforms Bill and Berar Land Tenure and Regulation of Leases of Agricultural Lands Bill, restrictions are sought to be placed on future partitions and alienations.

Effects of legislation. The Madhya Pradesh was the first State to try consolidation by means of legislation. The Act was, however, applied only very cautiously and was largely permissive in character, the initiative being thrown on the people. The recent Bombay and the Punjab Acts are more positive, but it is too early to give their results.

The Central Provinces (now Madhya Pradesh) Consolidation of Holdings Act, 1928, was in the first instance applied to Raipur, Bilaspur and Drug districts of the old Chhattisgarh Division and later in 1948 extended to Saugar district. During the year 1949-50 the work is being extended to the Hoshangabad district also with a view to consolidate lands ploughed under the tractor ploughing scheme. In all, 2,633 villages have so far been successfully consolidated involving about $23\frac{1}{2}$ lakhs of acres. It has been stated that the Act may not prove so successful in the cotton growing tracts of Berar, where the holdings are already fairly large and where the 'soil and position' factors will make it difficult to persuade the cultivators to agree to an exchange of plots.

In Uttar Pradesh, as an experimental measure, the scheme was tried under Section 6 of the U. P. Consolidation of Holdings Act, 1939, in six districts of the State, viz. Ballia, Bahrach, Bijnor, Sitapur and Allahabad. The scheme was also tried in Gorakhpur *ad hoc* panchayats elected by the villagers themselves. But the experiment in either case did not prove successful. The reasons for the unsatisfactory result given are the inaccuracy of the village records, the lack of properly trained staff for the work and the great variety of land tenures. It has, therefore, been decided to hold the Act in abeyance until the U. P. Zamindari Abolition and Land Reforms Bill has been given effect to.

In Bombay, the Bombay prevention of Fragmentation and Consolidation of Holdings Act, 1947, came into effect from 8th April, 1948. A special Superintendent of Land Records and Consolidation of Holdings has been appointed from 1st April, 1948. Training of consolidation Officers and Assistant Consolidation Officers is progressing. Exploratory work of consolidation has been started unofficially and 186 villages of 8 districts, 2 in Gujarat, 1 in Kamnad, 2 in Konkan and 3 in the rest of Maharashtra, have been selected as concentrated areas for the implementation of the Act in the first instance. Tentative schemes have been prepared in 61 villages out of these 186. The Bombay Government hope to complete the work under the Act in the twenty-two thousand and odd villages of the old Bombay province within 14 years from 1st April 1950, by tackling on an average about 1,500 villages per annum.

In the Punjab, the work of consolidation of holdings under the new Act, the East Punjab Holdings (Consolidation and prevention of Fragmentation) Act, 1948, has only just been started. A new Department has been set up and the work hitherto done by the Co-operative Department has been taken over by it. So far 70 villages, comprising 42,300 acres of Land, have been tackled on a trial basis. From 1st April, 1950 the programme of work has started with 450 sub-Inspectors (Patwaris), who are expected to finish consolidation operations in 1,80,000 acres of land yearly at the rough estimation of 400 acres a year by one Sub-Inspector.

Conclusion. With the abolition of Zamindaris, land reforms and simplification of land tenures, the problem of consolidation is likely to become easier. The land reform committees appointed recently in Cochin, Mysore, Hyderabad, Madras, Madhya Pradesh, Orissa and Uttar Pradesh have reviewed the question and are generally in favour of placing restrictions on the rights of transfers and

alienations with the object of creating reasonably sized economic holdings. The Congress Agrarian Reforms Committee have also proposed creation of economic and basic holdings. So far, Hyderabad alone has passed legislation to determine minimum economic holdings to suit the local area. The U. P. Land reforms Bill also seeks to fix minimum and maximum size of holdings by placing restrictions on the rights of sale and purchase. The only other alternative is amendment to laws of inheritance which at the present moment is fraught with greater difficulties. Thus, the principle of controlling the unrestricted rights of transfer of land has been widely favoured and in most of the States, legislation on the model of the Bombay and Punjab acts is under consideration. Side by side with this, existing holdings will be consolidated compulsorily.

Much of this shift in emphasis to compulsory consolidation is due to the urgency lent by the need to increase productivity of land by every possible means. Consolidation of scattered holdings and creation of profitable holdings constitute the first steps, without which further reforms may not have any chance of success. Experience in the Punjab shows that the co-operation of public is readily forthcoming when once the advantages of the method are clearly demonstrated. Mere legislation, however, is not enough. Sustained educative propaganda as would break down the prejudice of the people and win their willing co-operation is equally important. With the advent of popular agencies like co-operative farming societies and village panchayats, it may become easier to effect these improvements. The U.P. Zamindari Abolition and Land Reforms Bill and the Assam Panchayats Act 1948, contain provisions which lay on the panchayats the duty of encouraging consolidation of holdings within the area of their jurisdiction.

The results of the old Acts and the voluntary efforts in this direction have emphasised the need for preventing future fragmentation and the recurrence of the problem by suitable measures. The agrarian committees in Mysore, Orissa, Hyderabad and Cochin, which recently went into question, have recommended the framing of legislation for the purpose more or less on the lines of the Bombay Act.

ACTS ON CONSOLIDATION OF HOLDINGS

THE CENTRAL PROVINCES CONSOLIDATION OF HOLDINGS ACT, 1928

(VIII OF 1928)

An Act to provide for the consolidation of agricultural holdings.

Whereas it is expedient to provide for the consolidation of scattered agricultural holdings ;

and whereas the previous sanction of the Governor-General required by subsection (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act ;

It is hereby enacted as follows :-

CHAPTER I.—PRELIMINARY

1. (1) This Act may be called the Central Provinces Consolidation of Holdings Act, 1928.

Short title.
Construction
and extent

II of 1917.
I of 1920.

(2) It shall be construed with the Central Provinces Land Revenue Act, 1917, and the II of 1917. Central Provinces Tenancy Act, 1920, and, in so far as it relates to land revenue, it shall be deemed to be part of the Central Provinces Land Revenue Act, 1917, and, in so far as it relates to agricultural tenancies, it shall be deemed to be part of the Central Provinces Tenancy Act, 1920.

(3) It shall extend in the first instance to the Chhattisgarh Division of the Central Provinces, but the Provincial Government may, by notification, direct that it shall extend in whole or in part to any other part of the Central Provinces.

II of 1917.
I of 1920.

2. (1) Unless there is anything repugnant in the subject or context, any expression used in this Act which is defined or explained in the Central Provinces Land Revenue Act, 1917, or in the Central Provinces Tenancy Act, 1920, shall have the meaning therein assigned to it.

Meaning of
expressions
defined in
land revernt
or tenancy
Act.

(2) Every expression which is defined or explained in any part of this Act is used in every part of the Act in conformity with the definition or explanation.

3. “Consolidation of holdings” means the redistribution of all or any of the land in a village, mahal or patti so as to reduce the number of plots in the holdings.

Consolidation
of
holdings.

4. “Consolidation Officer” means a Revenue Officer not below the rank of a Tahsildar, appointed by the

Consolidation
officer.

Provincial Government for any district or districts to exercise the powers, and to perform the duties, of a Consolidation Officer, under this Act.

Permanent holder and holding. 5. In the table set out below the person specified in the second column shall be deemed to be the permanent holders of the land by him as specified in the first column; and the land specified in the first column shall be deemed to be the holding of that permanent holder :-

| | | |
|--|-----|------------------------------------|
| Sir land | ... | ... The proprietor. |
| Khudkasht land | ... | ... The proprietor. |
| Communal land | ... | ... The proprietor. |
| Unoccupied land | ... | ... The proprietor. |
| Malik-makbuza land | ... | ... The malik-makbuza. |
| Malik-sarkar land | ... | ... The Government. |
| Land held in absolute occupancy tenure. | ... | ... The absolute-occupancy tenant. |
| Land held in occupancy tenure | ... | ... The occupancy tenant. |
| Land comprised in a village service holding. | ... | ... The village servant. |
| Land held in raiyat-malik right | ... | ... The raiyat-malik. |
| Land held in raiyat-wari right | ... | ... The raiyat. |
| Land held by a local body | ... | ... The local body. |

Explanation I.—A thekedar with protected STATUS shall be deemed to be the proprietor of sir and khudkasht land held by him.

Explanation II.—If superior and inferior rights exist, the proprietor acting in the management of the mahal or patti shall be the permanent holder for the purposes of this Act, and a scheme of consolidation that is binding on him and any action taken by him under this Act shall be binding also on the superior or inferior proprietor, as the case may be.

CHAPTER II.—PROCEDURE FOR CONSOLIDATION.

Who may apply for consolidation of holdings.

6. (1) Any two or more permanent holders in a village, mahal or patti holding together not less than the minimum area of land prescribed by rules made under section 29 may apply to the Consolidation Officer for the consolidation of their holdings.

(2) If not less than one-half of the permanent holders in a village, mahal or patti, holding not less than two-thirds of the occupied area in the village, mahal or patti,

apply for consolidation of their holdings, or, if an inquiry into an application made "Under sub-section (1), the Consolidation Officer finds that not less than one-half of the permanent holders, holding not less than two-thirds of the occupied area, agree, in writing, to the consolidation of their holdings, the application shall be deemed to be an application on behalf of all the permanent holders in the village, mahal or patti.

(3) If in a case falling under sub-section (2) any scheme of consolidation of holdings is confirmed, it shall be binding on all the permanent holders of the village, mahal or patti and on any persons who may subsequently be entitled to hold or occupy the land.

(4) In any other case, if any scheme of consolidation of holdings is confirmed, it shall be binding on the applicants and those who have agreed to the consolidation of their holdings and on any persons who may subsequently be entitled to hold or occupy the land affected by the scheme.

7. An application for consolidation of holdings shall be made in writing and shall contain such particulars as may be prescribed by rules made under section 29.

Application
to be made
in writing.

8. (1) If on receipt of any such application or at any stage of the proceedings thereon, there appears to be good and sufficient reason for disallowing the application, or for excluding the case of any applicant from consideration, the Consolidation Officer may submit the application to the Settlement Officer with a recommendation that the application be rejected in whole or in part, or that the proceedings be quashed.

Rejection of
applications

(2) The Settlement Officer, on receipt of the recommendation, may accept it and pass orders accordingly or may order further inquiry.

9. If the Consolidation Officer admits the application, he shall proceed to deal with the same in accordance with the procedure prescribed in the Act or by rules made under section 29.

Admission of
applications.

10. (1) If the permanent holders making the application under section 6 submit a scheme of consolidation of holdings mutually agreed to, the Consolidation Officer shall, in the manner prescribed by rules made under section 29, examine it and, if necessary, modify it.

Preparation
of scheme
for consoli-
dation of
holdings.

(2) If no scheme is submitted with the application, the Consolidation Officer shall prepare a scheme for the consolidation of holdings in the manner prescribed by rules made under section 29.

(3) If the Consolidation Officer is of opinion that the redistribution of land in accordance with a scheme of

consolidation will have the result of allotting to any permanent holder a holding or land of a less market value than that of his original holding or land, the scheme may provide for the payment of compensation to such permanent holder by such person or persons as the Consolidation Officer may direct.

(4) When the scheme of consolidation is complete, the Consolidation Officer, after considering and, as far as possible, removing the objections, if any, made to the scheme, shall submit it for confirmation to the Settlement Officer.

(5) When the scheme of consolidation is complete and if all the permanent holders, affected by such scheme, agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession from a date to be mentioned in the scheme.

Confirmation of the scheme.

11. (1) If the Settlement Officer succeeds in removing any objection still remaining or if there is no such objection, he shall confirm the scheme of consolidation.

(2) If he fails to remove such objections, he shall submit the scheme with his recommendations for the decision of the Settlement Commissioner, which subject to any order that may be passed by the Provincial Government under section 26, shall be final.

Procedure on confirmation.

12. (1) Upon confirmation of the scheme of consolidation, the Consolidation Officer shall, if necessary, demarcate the boundaries of the holdings and shall proceed to announce the decisions finally made and cause to be prepared a new record of rights in accordance with the scheme for the holdings affected thereby.

(2) Such record of rights shall be deemed to have been prepared under sub-section (1) of section 45 of the Central Provinces Land Revenue Act, 1917.

II of 1917

Right of permanent holders to possession of holdings.

13. The permanent holders, affected by the scheme of consolidation, if they have not entered into possession under sub-section (5) of section 10, shall be entitled to possession of the holdings, allotted to them under the scheme, from the commencement of the agricultural year next following confirmation; and the Consolidation Officer shall, if necessary, put them by warrant in possession of the holdings to which they are entitled.

Provided that if all the permanent holders agree, they may, after confirmation, be put into possession of their holdings by the Consolidation Officer from any earlier date.

II of 1917
I of 1920

14. Notwithstanding anything contained in the Central Provinces Land Revenue Act, 1917, and the Central Provinces Tenancy Act, 1920, the rights of permanent holders in their holdings shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

Transfer of rights of permanent holders in holdings.

15. Notwithstanding anything contained in any law for the time being in force—

No instru-
ment neces-
sary to effect
transfer.

- (a) no instrument, in writing, shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings, and
- (b) no such instrument, if executed, shall require registration.

16. (1) The Consolidation Officer shall, if the Settlement Officer so directs, recover from the permanent holders, whose holdings are affected by the scheme for consolidation of holdings, the costs of carrying out the scheme, which shall be assessed in accordance with rules made under section 29.

(2) The Consolidation Officer shall apportion the costs among the permanent holders liable to pay them, according to the occupied area of the holdings affected by the scheme.

17. Any amount payable as compensation under sub-section (3) of section 10 or as costs under section 16 may be recovered as an arrear of land revenue.

Recovery of compensation and costs.

I of 1920

CHAPTER III—EFFECT OF CONSOLIDATION PROCEEDINGS AND OF CONSOLIDATION.

18. (1) During the continuance of the consolidation proceedings, the Consolidation Officer shall have power to discharge the functions of a Revenue Officer, under sections 13, 36, 46, 47, 93, 94, 98 and 100 of the Central Provinces Tenancy Act, 1920, and no Revenue Officer other than the Consolidation Officer shall take any proceedings under the said sections in respect of any holding or land which will be affected by the scheme of consolidation.

Exercise by
Consolidation
Officer
of powers
under the
Tenancy Act

(2) When an application for the consolidation of holdings is admitted:—

- (a) all applications and proceedings then pending before a Revenue Officer under any of the sections of the Tenancy Act mentioned in sub-section (1), in respect of any holding or land that will be

affected by the scheme of consolidation, shall be transferred to the Consolidation Officer for disposal; and

(b) the Consolidation Officer shall, by proclamation, call upon any person who claims to be entitled to possession, under any of the said sections, of any holding or land that will be affected by the scheme of consolidation, to make within such period as may be fixed by rules under section 29, an application to be put in possession; and any person entitled to make such an application who fails to do so before the expiry of the period fixed shall thereafter be debarred from making it.

(3) On the application of any party to the proceedings to be made within fifteen days of the date of the order:-

- (a) the Consolidation Officer shall submit any order passed by him under any of the sections of the Tenancy Act mentioned in sub-section (1) to the Settlement officer,
- (b) the Settlement Officer shall submit any order passed by him, confirming or reversing the order of the Consolidation Officer, to the Settlement Commissioner for confirmation.

(4) The Settlement Officer or the Settlement Commissioner, as the case may be, shall not pass any order under sub-section (3) until an opportunity has been given to the applicant to be heard in support of his application.

19. When an application for the consolidation of holdings has been admitted under section 9, no proceedings under Chapter XI of the Central Provinces Land Revenue Act, 1917, in respect of any village, mahal or patti which will be affected by the scheme of consolidation shall be commenced, and all such proceedings pending shall remain in abeyance, during the continuance of the consolidation proceedings.

Suspension of partition proceedings during currency of consolidation proceedings.

Transfer of property during proceedings.

Rights of permanent holders after consolidation same as before.

Encumbrances of permanent holders,

20. When an application for the consolidation of holdings has been admitted, no permanent holder upon whom the scheme will be binding shall have power, during the continuance of the consolidation proceedings, to transfer or otherwise deal with any part of his original holding or land so as to affect the rights of any other permanent holder thereto under the scheme of consolidation.

21. A permanent holder shall have the same rights in the holding or land allotted to him in pursuance of a scheme of consolidation as he had in his original holding.

22. (1) If the holding of any permanent holder brought under the scheme of consolidation is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and

shall attach to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer, subject to any rules that may be made under section 29, may have appointed in preparing the scheme; and, thereupon, the lessee, mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred.

(2) Notwithstanding anything contained in section 13, the Consolidation Officer shall, if necessary, put any lessee or any mortgagee or other encumbrancer entitled to possession, by warrant into possession of the holding or part of a holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

CHAPTER IV.—GENERAL.

23. The Provincial Government may, by notification invest the Deputy Commissioner with the powers of the Settlement Officer under this Act

Investment of Deputy Commissioner with powers of settlement officer.

24. The Consolidation Officer shall be subordinate to the Settlement Officer or to the Deputy Commissioner when the latter is invested with the powers of the Settlement Officer.

Subordination of consolidation officer.

I of 1920

25. No appeal shall lie from any order passed under this Act or the rules made thereunder or from any order passed by the Consolidation Officer under sections 13, 36, 46, 47, 93, 94, 98 and 100 of the Central Provinces Tenancy Act, 1920.

Appeal.

26. The Provincial Government may, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act, call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Power to call for and examine records.

Provided that it shall not vary or reverse any order affecting any question of right between private persons without having given to the parties interested notice to appear and to be heard in support of such order.

Jurisdiction of civil court barred as regards matter arising under this Act.

27. No civil court shall entertain any suit instituted, or application made, to obtain a decision or order in respect of any matter which the Provincial Government or any officer is, by this Act, empowered to determine, decide or dispose of.

28. No suit or other legal proceedings shall be maintained in respect of the exercise of any powers or discretion conferred by this Act or against any public servant or person duly appointed or authorized under this Act in

Public servant indemnified for acts done under this Act.

respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Power to make rules.

29. (1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules:-

- (a) prescribing the minimum area of land to be held by the persons making an application under sub-section (1) of section 6;
- (b) providing for the particulars to be contained in any application made under section 7;
- (c) providing for the procedure to be followed by the Consolidation Officer in dealing with applications for the consolidation of holdings and for the appointment and constitution of any advisory committee or panchayat to assist the Consolidation officer in the examination and preparation of the scheme;
- (d) for determining the compensation to be paid in cases falling under sub-section (3) of section 10;
- (e) for regulating the assessment of costs under section 16;
- (f) for determining the market value of the different holdings and lands brought under any scheme of consolidation;
- (g) for the guidance of the Consolidation Officer in respect of the transfer of encumbrances and leases under section 22; and
- (h) generally for the guidance of the Consolidation Officer and other Officers and person in all proceedings under this Act.

(3) All rules made under this section shall be subject to the condition of previous publication.

UNITED PROVINCES CONSOLIDATION OF HOLDINGS ACT, 1939

UNITED PROVINCES ACT No. VIII OF 1939

[PASSED BY THE UNITED PROVINCES LEGISLATIVE ASSEMBLY ON MAY 11, 1939, AND BY THE UNITED PROVINCES LEGISLATIVE COUNCIL ON MAY 27, 1939, WITH CERTAIN AMENDMENTS WHICH WERE AGREED TO BY THE UNITED PROVINCES LEGISLATIVE ASSEMBLY ON JULY 12, 1939.]

WHEREAS it is expedient to provide for the development of agriculture through the consolidation of agricultural holding;

It is hereby enacted as follows :

CHAPTER I—PRELIMINARY

1. (1) This Act may be called the United Provinces Consolidation of Holdings Act, 1939.

Short title,
extent and
commencement.

(2) It extends to the whole of the United Provinces except the Kumaun Division, the Jaunsar-Bawar Pargana of the Dehra Dun District and the portion of the Mirzapur District south of the Kaimur Range:

Provided that the Provincial Government may by notification in the official *Gazette* direct that the Act shall apply to the Kumaun Division or to any portion of that division subject to such modification, if any, as it thinks fit and may, be a like notification from time to time alter such direction.

(3) It shall come into force on such date as the Provincial Government may, by notification in the official *Gazette*, direct.

2. In this Act, unless there is something repugnant in the subject or context,—

Interpreta-
tions.

(1) subject to the provisions of the following sub-sections, words used in this Act which are defined or explained in the United Provinces Land Revenue Act, 1901, the

Agra tenancy Act, 1926, or the Oudh Rent Act, 1886, have the meanings assigned to them therein;

U. P. III of
1926.
XXII of
1886.

(2) "applicant" means an applicant for an order of consolidation;

(3) "consolidation" means the re-distribution of land between the cultivators thereof in such a way as to make the areas cultivated by them more compact;

(4) "consolidation officer" means an officer appointed by the Provincial Government to perform in any local area the duties of a consolidation officer under this Act;

(5) "cultivation" includes cultivation by servants or by hired labour and "cultivate" shall be construed accordingly;

(6) "cultivator" means a person other than a sub-tenant or a tenant of *sir*, who cultivates a holding and includes a person who has leased the whole or any part of his holding to a sub-tenant or to a tenant of *sir*, and in case of a joint holding means the whole body of cultivators who are joint in such holding;

(7) "holding" includes *sir* and *khudkasht*, but does not include grove-land or land let or held for pasturage, or the holding of an under-proprietor, permanent lessee, permanent tenure-holder or thekadar;

(8) "*khudkasht*" means land, other than *sir*, cultivated by the proprietor, under-proprietor, permanent lessee or a permanent tenure-holder thereof;

(9) "permanent lessee" means a person in Oudh who holds land under a heritable non-transferable lease and who is entered in the register maintained under the provisions of clause (b) or clause (c) of section 32 of the United Provinces Land Revenue Act, 1901.

U. P. III o
1901.

CHAPTER II—APPLICATION FOR CONSOLIDATION

Application
for an order
of consolida-
tion.

3. (1) The proprietor of a village or mahal, or the lambardar or the cultivators of more than one-third of the cultivated area of a village, may apply in the prescribed form to the consolidation officer for an order of consolidation of such village.

(2) An application made under the provisions of sub-section (1) shall contain a list of the holdings, with their areas, of which the applicants claim to be cultivators.

Procedure of
consolida-
tion officer.

4. (1) On receipt of an application made under the provisions of section 3, the consolidation officer shall cause a notice to be affixed in a prominent place in the

village announcing that the applicant or applicants have applied for an order of consolidation of the village and calling upon any cultivator or co-sharer, if he so wishes, to show cause within one month of the affixation of such notice why an order of consolidation should not be made.

(2) When an application is made by the cultivators, a copy of the notice affixed under the provisions of sub-section (1) shall be served on the lambardar, if any, of the village and where there is more than one lambardar, on each such lambardar.

(3) When an application is made by a proprietor or the lambardar a copy of the notice affixed under the provisions of sub-section (1) shall be served on the co-sharers also.

5. (1) On the expiry of the period mentioned in section 4, the consolidation officer, after hearing any cultivator or lambardar or co-sharer who appears to show cause why an order of consolidation should not be made, shall proceed to make such order unless, after making such inquiry as he thinks fit, he is satisfied that the applicants are not the cultivators of more than one-third of the cultivated area of the village or unless, with the previous sanction of the collector, he considers that an order of consolidation should not be made.

Objection to
the making
of a conso-
lidation
order.

(2) An order made by the consolidation officer under the provisions of sub-section (1) to the effect that an applicant is or is not the cultivator of a holding of which he claims to be the cultivator shall not affect the right of such applicant or of any person who contents such applicant's claim to establish his claim to such holding in any court of competent jurisdiction.

6. The collector or an officer authorized by the Provincial Government in this behalf may after giving notice of his intention to do so in the manner provided in section 4 and hearing any objections or suggestions that may be made by any lambardar, co-sharer or cultivator, direct an assistant collector of the first class to make an order of consolidation of a village and may of his own motion or on the application of any proprietor, lambardar or co-sharer or cultivator of the village, make proposals regarding the way in which the scheme for consolidation of the village should be drawn up and on receipt of such direction such assistant collector shall proceed according to the provisions of Chapter III of this Act, and any such assistant collector shall have all the powers of a consolidation officer under this Act.

Consolida-
tion by
direction of
the collector.

**CHAPTER III—PROCEDURE AND POWER OF THE
CONSOLIDATION OFFICER**

**Partition
proceedings.**

7. (1) Unless the collector otherwise directs no application for the partition of a mahal of a village with respect to which an application for an order of consolidation has been made under the provisions of this Act shall be made in any court between the date of the application for an order of consolidation and the date on which the consolidation scheme is confirmed by the collector or such application is dismissed.

(2) If, on the date on which an application for an order of consolidation is made, under the provisions of section 3, an application for the partition of any mahal of the village is pending in any court, the application for an order of consolidation shall, unless the collector otherwise directs, be rejected.

**Preparation
of provisions
al scheme.**

8. (1) When the consolidation officer has made an order for consolidation, he shall, before preparing the outline of a consolidation scheme, examine and test the accuracy of the village map and record of rights, and decide whether a re-survey or correction of the village map or of the village register, or both, is required before the outline is prepared. If he decides that re-survey, or correction, or both, as the case may be, is required before an outline of consolidation can be prepared, he shall apply to the collector to place the village under survey or record operations, or both, under Chapter IV of the United Provinces Land Revenue Act, 1901.

U. P. III of
1901.

(2) If the consolidation officer decides that re-survey or correction of the village map or of the record of rights or both, as the case may be, is not required, or if re-survey or correction has been made under the provisions of sub-section (1), he shall, after giving reasonable notice to the proprietor, lambardar and the cultivators of the village, and after considering any directions which may have been made under section 6, visit the village and prepare, in consultation with such persons concerned as may appear for the purpose, an outline of a scheme for consolidating the holdings of cultivators in the village.

(3) The outline of the consolidation scheme shall set forth in writing and by means of maps how the consolidation is to be made and shall specify by means of the khusrā numbers of the fields the holding which is allotted to each cultivator in exchange for each of his original holdings.

(4) The consolidation officer shall, in accordance with rules made by the Board, ensure that, as far as possible, each cultivator is given land suitable for the cultivation of the principal crops grown in the village and that the valuation of the holdings allotted to a cultivator is equal

to the valuation of his original holdings and shall demarcate and divide off each holding so allotted.

(5) If the consolidation officer, for reasons to be recorded, finds that it is impracticable to allot land in accordance with the provisions of sub-section (4) regarding valuation, he shall, in accordance with rules made by the Board, order that any cultivator who receives holdings of a valuation less than that of his original holdings shall receive compensation from those cultivators who have received holdings of a valuation exceeding that of their original holdings.

9. When the outline of the consolidation scheme has been prepared in accordance with the provisions of section 8, the consolidation officer shall cause a map and records displaying the scheme to be laid open for inspection at his office and at a suitable place in the village, and shall issue a general notice to the proprietor, lambardar and the cultivators of the village that such map and records may be inspected either in the village or at his office within one month of the date of publication of such notice, and that any person affected thereby may make an objection within thirty days of the date of publication of such notice.

Objection
provisional
scheme.

10. (1) The consolidation officer shall decide in the village and in the presence of such cultivators as may be present all objections made in accordance with the provisions of section 9, and after modifying the outline of the consolidation scheme and the map and the records, as may be necessary, shall submit the record to the collector for confirmation of the consolidation scheme.

Decision of
objections
on
provisional
scheme.

(2) The consolidation scheme shall not be final until the collector has decided all the appeals filed under section 18 and has passed an order confirming it.

(3) When the scheme has been confirmed the collector shall issue a proclamation thereof, and it shall take effect from the first day of July next following the date of such proclamation.

New regist
of cultivat
ing rights.

U. P. III of
1901.

11. The consolidation officer shall, in accordance with the consolidation scheme prepare a new map and a new register under section 32 sub-clause (c) of the United Provinces Land Revenue Act, 1901.

12. (1) If a cultivator has made an improvement on or affecting any land, such land shall, subject to the provisions of sub-section (2), be allotted to him and the consolidation officer shall in making the consolidation scheme have due regard to the desirability of allotting to such cultivator other land near such land.

Allotment
land with
improve-
ment or
award of
compensa-
tion there-

(2) If the land on which an improvement has been made or which is effected by an improvement cannot

conveniently be allotted to the cultivator who made it but is allotted to another cultivator, the consolidation officer shall award compensation to the cultivator who made the improvement in accordance with the provisions of sections 117 and 118 of the Agra Tenancy Act, 1926, or of section 27 of the Oudh Rent Act, 1886, as the case may be, or the corresponding provisions of any law for the time being in force, and the consolidation scheme shall not be confirmed until such compensation is realized from the cultivator to whom such land is allotted :

U. P. III of
1926.
XXII of
1886.

Provided that the consolidation officer shall not refuse to award compensation merely on the ground that the improvement was made more than thirty years before such award :

Provided further that the landholder, if any, or the cultivator who made the improvement may, if he wishes, pay such compensation.

(3) When compensation has been paid under the provisions of sub-section (2) the improvement shall, for all purposes, be deemed to have been made at the expense of the cultivator or the landholder, who paid such compensation, as the case may be.

(4) Any amount due from a cultivator or landholder under the provisions of this section shall be recoverable as an arrear of land revenue.

rights after
consolida-
on.

13. (1) On the date on which an order confirming a scheme of consolidation comes into force the proprietary or other rights of a cultivator whose land is allotted in exchange for other land shall be extinguished in the land so allotted and he shall have the same rights and be subject to the same liabilities in respect of the land allotted to him as he possessed in the land exchanged therefor and such rights and liabilities shall be specified in the consolidation scheme.

Provided that the consolidation officer may, in the consolidation scheme, direct that the provisions of this sub-section shall apply with such modifications as he considers necessary if in his opinion their application in full will, in any particular case, cause injustice to any party interested in such order.

(2) Notwithstanding anything contained in any law for the time being in force if the land allotted in exchange for other land is subject to any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and shall attach to such other land or to such part of such other land as may be specified in the consolidation scheme, and thereupon the lessee, mortgagee or other encumbrancer shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance is so transferred.

Correction
of records.

14. (1) Whenever it appears to a consolidation officer that a village should be placed under survey or record operations, or both, before an outline of a consolidation scheme is prepared, he may apply to the collector that the village should be placed under survey or record operations or both.

U. P. III of
1901.

U. P. III of
1901.

(2) Notwithstanding anything in the United Provinces Land Revenue Act, 1901, the collector, if he is satisfied that a re-survey or revision of records, or both, as the case may be, is required, may declare the village to be under survey or record operations or both, and thereafter the provisions of Chapter IV of the United Provinces Land Revenue Act, 1901, shall apply to such village.

(3) On such declaration the collector shall have all the powers of a record officer, and the consolidation officer shall have all the powers of an assistant record officer.

15. (1) If on the date on which an application for an order of consolidation is made there is pending in the court of first instance any application or suit in which the nature of the relief sought is a decision as to tenant right or sir right, or as to a right to cultivate, or as to exchange of land in respect of any of the holdings in the village, such application or suit shall be transferred to the court of the consolidation officer and any such application or suit filed between such date and the date on which the consolidation scheme is completed shall be transferred to the court of the consolidation officer.

Declaratory
suits
regarding
tenancies.

U. P. III of
1926.
XXII of
1886.

(2) The consolidation officer shall, before completing the consolidation scheme, decide all such suits in accordance with the provisions of the Agra Tenancy Act, 1926 or of the Oudh Rent Act, 1886, as the case may be, or of any law for the time being in force unless for special reasons to be recorded in writing, he thinks that it is not expedient or necessary to decide all or any of such suits in which case he shall return all suits, which he thinks he should not decide, to the court from which they were received.

U. P. III of
1901.

U. P. III of
1901.

16. When the collector confirms a consolidation scheme he may, on the application of one or more of the proprietors, and notwithstanding anything in Chapter VII of the United Provinces Land Revenue Act, 1901, direct the consolidation officer or any assistant collector of the first class to partition the village and on such order the provisions of Chapter VII of the United Provinces Land Revenue Act and of the rules made under section 234 of that Act shall apply to such partition.

Provision
for
subsequent
partition.

CHAPTER IV—APPEAL, REFERENCE AND REVISIONS

17. No appeal and no application for review, reference or revisions shall be from any order passed under the

Appeals, etc.
to be as
allowed by
Act.

provisions of this Act except as provided in this Act.

First appeals.

18. An appeal shall lie to the collector from the following orders of the consolidation officer, namely :

- (a) an order passed under the provisions of sub section (1) of section 10, deciding an objection ;
- (b) an order passed under the provisions of sub-section (2) of section 12, regarding compensation ;
- (c) an order passed under the provisions of the proviso to sub-section (1) of section 13, directing that the provisions of that sub-section shall apply with modification to any particular case.

Limitation for appeals.

19. (1) No appeal to the collector shall be brought after expiration of sixty days from the date of the order submitting the consolidation scheme to the collector for confirmation.

(2) When a party desires to appeal against several orders which are appealable under section 17, he may do so in a single appeal.

Power of collector to call for record and proceedings and referen-
ce to Board.

20. The collector may call for and examine the record of any case decided by the consolidation officer or of any proceedings held by him, for the purpose of satisfying himself as to the legality or propriety of the order passed and as to the regularity of proceedings ; and, if he is of opinion that the proceedings taken or any order passed by the consolidation officer should be varied, cancelled or reversed, he shall refer the case with his opinion for the orders of the Board, and the Board shall thereupon pass such orders as it thinks fit.

Power of Board to call for records and to revise orders.

21. The Board may call for the record of any case if the officer by whom the case was decided appears to have exercised a jurisdiction not vested in him by law or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of his jurisdiction illegally or with substantial irregularity, and may pass such orders in the case as it thinks fit.

Procedure in proceedings under the Act.

22. Subject to the provisions of this Act, the provisions of Chapter IX and of sections 215 to 217 and section 220 of the United Provinces Land Revenue Act, 1901, shall apply to appeal, revisions and other proceedings under this Act.

U. P. III of
1901.

CHAPTER V—MISCELLANEOUS

Bar to civil court jurisdiction.

23. No person shall institute any suit or other proceeding in any civil court with respect to any matter arising out of consolidation proceedings or with respect to any other matter in regard to which a suit or application could be filed under the provisions of this Act.

IX of 1901.

24. Subject to the provisions of this Act, the provisions of section 4, 5, 9 to 18 and 22 and no others of the Indian Limitation Act, 1908, shall apply to suits and other proceedings under this Act.

Application of the Limitation Act.

25. (1) The consolidation officer shall, in accordance with rules made by the Provincial Government, determine the cost of consolidation and, in accordance with rules made by the Board, distribute such cost between the persons affected by the order of consolidation.

Costs.

(2) Any amount payable as costs under this section shall be recoverable as an arrear of land revenue.

26. The Provincial Government may appoint any assistant collector of the first class to perform in any local area the duties of a consolidation officer, or invest any assistant collector of the powers of a collector under this Act.

Powers.

27. No court fee shall be payable on any application made in any proceedings under the provisions of this Act.

Exemption from court fee.

28. The Board may make rules, consistent with the provisions of this Act:

Board's power to make rules.

- (a) prescribing the particulars to be contained in any application filed under section 3;
- (b) prescribing the circumstances in which the collector may direct under section 7 that an application for consolidation may be made when partition proceedings are pending or that an application for partition may be made when consolidation proceedings are pending;
- (c) prescribing the circumstances in which the collector should direct an assistant collector to make an order of consolidation or a consolidation scheme under the provisions of section 6;
- (d) providing for the procedure to be followed by the consolidation officer or assistant collector in making a consolidation scheme and disposing of objections thereto;
- (e) for determining the valuation of the holdings and lands to be consolidated;
- (f) for the guidance of the consolidation officer or assistant collector in respect of the transfer of encumbrances and leases;
- (g) providing for attestation of records;
- (h) prescribing fees to be paid to amans or surveyors for demarcation or survey work;
- (i) generally for giving effect to the provisions of this Act.

THE JAMMU AND KASHMIR CONSOLIDATION OF HOLDINGS ACT, 1996. SVT.

ACT NO. XXII OF 1996.

Preamble.

WHEREAS it is expedient to facilitate the Consolidation of Holdings in the Jammu and Kashmir State; It is hereby enacted as follows:—

CHAPTER I.—PRELIMINARY.

Short title, extent and commencement,

1. (1) This Act may be called the Jammu and Kashmir Consolidation of Holdings Act, 1996.

(2) It shall apply to all areas in Jammu and Kashmir State to which the Government may extend it by notification in the official Gazette from such date as may be specified in the notification and also to all societies having as their object the Consolidation of Holdings and registered under the Cooperative Societies Act No. VI of 1993, provided that the Government may by notification exempt any such society or class of societies from the operation of all or any of the provisions of this Act and thereupon the said provisions shall not apply to the society or class of societies until applied there to by notification.

Definitions.

2. (1) In this Act:—

- (a) “Holdings” means a share or portion of an estate held by one land-owner or jointly by two or more land-owners.
- (b) “Consolidation of Holdings” means the redistribution of all or any of the lands in an estate or a sub-division of an estate so as to reduce the number of plots in the holdings.
- (c) “Consolidation Officer” means any officer or class of officers invested by general or special order of the Government with the powers of a Consolidation officer under this Act or appointed by the Government to perform the duties of a Consolidation officer within any area.
- (d) “Registrar”, “Assistant Registrar” and “Deputy Registrar”, means person appointed to perform the duties of a Registrar, Assistant Registrar or Deputy Registrar under the Co-operative societies Act No. VI of 1993.
- (e) “Sub-division” means a part of an estate recorded as a sub-division, *patti*, *taraf* or *pana* in a record-of-rights, prepared under section 30 of the Jammu and Kashmir Land Revenue Act 1996, provided it forms a compact block.

(2) Unless there is anything repugnant in the subject or context, all expressions used in this Act which are defined or explained in the Jammu and Kashmir Land Revenue Act, 1996, or the Jammu and Kashmir Tenancy Act II, 1980 shall have the meanings assigned to them therein.

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CHAPTER II—CONSOLIDATION OF HOLDINGS.

3. (1) Any two or more land-owners in an estate or sub-division of an estate, holding together not less than the minimum area of land prescribed by rules made under section 26, may make an application in writing to the Consolidation officer for the consolidation of their holdings.

Who may apply for consolidation of Holdings.

(2) If not less than two-thirds of the land-owners in an estate or a sub-division of an estate, holding not less than three-fourths of the cultivated area in the estate, or the sub-division of the estate, make an application for consolidation of their holdings or, if on enquiry into an application made under sub-section (1), the Consolidation officer is satisfied that not less than two-thirds of the land-owners holding not less than three-fourths of the cultivated area, agree in writing, to the consolidation of their holdings, the application shall be deemed to be an application on behalf of all the land-owners in the estate or the sub-division of the estate.

(3) If in a case falling under sub-section (2) any scheme of consolidation of holdings is confirmed, it shall be binding on all the land-owners of the estate or sub division of the estate, on any person having a right or interest in the area included in the scheme and on any person who may subsequently be entitled to hold or occupy the land, or to any right or interest in the said area

(4) In any other case any scheme of consolidation of holdings shall be confined to land owned by the applicants and by other land-owners who have agreed to the consolidation of their holdings, and, if confirmed, it shall be binding on them, on any person having a right or interest in the area included in the scheme and on any person who may subsequently be entitled to hold or occupy the land or to any right or interest included in the scheme.

4. (1) If on receipt of any application for consolidation or at any stage of the proceedings thereon, there appears to be good and sufficient reason for disallowing the application, or for excluding any land from consolidation, the Consolidation officer may submit the application to the Governor with a recommendation that the application be rejected in whole or in part, or that the proceedings be quashed.

Recommendation of Consolidation officer to Governor.

(2) The Governor on receipt of the recommendation may pass such order thereon as he deems proper, rejecting

or accepting it, either in whole or in part, or he may direct the Consolidation officer to make further recommendation after inquiry.

Admission of application.

5. If the Consolidation officer makes no recommendation to the Governor, or if a recommendation is made but the Governor allows the application to be entertained in whole or in part, the Consolidation officer shall admit the application in whole or in part, as may be, and shall proceed to deal with it in accordance with the procedure prescribed in this Act and in the rules made under section 26 of this Act.

Preparation of scheme for consolidation of holdings and appointment of an Advisory Committee.

6. (1) If the land-owners making the application under section 3 submit a scheme of consolidation of holdings mutually agreed to, the Consolidation officer shall, in the manner prescribed by rules under section 26, examine it and, if necessary, modify it.

(2) If no scheme is submitted with the application the Consolidation officer shall prepare a scheme for the consolidation of holdings in the manner prescribed by rules under section 26.

(3) The Consolidation officer may, subject to any rules made by the Government under clause (c) of sub-section (2) of section 26 of this Act appoint an Advisory Committee or Panchayat to assist him in the preparation of a scheme for the consolidation of holdings.

Removal of objections and confirmation of the scheme.

7. (1) When a scheme of consolidation has been prepared, the Consolidation officer shall consider and, as far as possible remove the objections, if any, made to the scheme by any person interested in it, including an occupancy tenant.

(2) If the Consolidation officer succeeds in removing all the objections, or if there is no objection, he shall pass an order confirming the scheme of consolidation.

(3) If the Consolidation officer fails to remove any objection, he shall submit the scheme with his recommendation to the Governor, who, after giving notice to the persons concerned and hearing them, if they desire to be heard; may reject the scheme or confirm it, with or without modification as he deems proper, or may make or cause to be made such further enquiry as he may think necessary, and thereafter may reject the scheme or confirm it with or without modification as he deems proper.

Payment of compensation.

8. If the Consolidation officer or the Governor as may be, is of the opinion that the redistribution of land in accordance with the scheme of consolidation confirmed by him will have the result of allotting to any land owner any piece of land of a less market value than his original piece of land and that it is equitable that compensation

shall be granted, the scheme may provide for payment of compensation in regard to such piece of land, to be paid by, and to, such persons affected by the scheme, as may be provided in the scheme.

9. (1) Any person aggrieved by an order of the Consolidation officer confirming a scheme may, within sixty days from the date of the order, prefer an appeal to the Governor.

(2) A second appeal from the order of the Governor passed on an appeal under sub-section (1) shall lie to the Revenue Commissioner within ninety days from the date of the order provided that when the order of the consolidation officer is confirmed on appeal by the Governor, no second appeal shall lie.

(3) Any person aggrieved by an order of the Governor, made under sub-section (3) of section 7 confirming, rejecting or modifying a scheme of consolidation submitted to him by the Consolidation officer may, within ninety days from the date of the order, prefer an appeal to the Revenue Commissioner.

10. (1) Upon the final confirmation of the scheme of consolidation, the Consolidation officer shall, if necessary, demarcate the boundaries of the holdings and shall proceed to announce the decision finally made and shall cause to be prepared a new record-of-rights in accordance with the scheme for the holdings affected by the consolidation.

Procedure of confirmation.

(2) Such record-of-rights shall be deemed to have been prepared under the Jammu and Kashmir Land Revenue Act 1996.

11. The land-owners and tenants affected by the scheme of consolidation shall be entitled to possession of the holdings and tenancies allotted to them under the scheme and the Consolidation officer shall by order direct that they be put in possession thereof from such date as he may deem expedient after the final confirmation of the scheme and may, if necessary, exercise the powers of a Revenue officer under the Jammu and Kashmir Land Revenue Act 1996, in order to give possession.

Right of land owners and tenants to possession of holdings & tenancies.

12. A land-owner or a tenant shall have the same rights in the holding or land allotted to him in pursuance of a scheme of consolidation as he had in his original holding or tenancy, as the case may be.

Rights of land-owners and tenants after consolidation same as before.

13. (1) If the holding of a land-owner or the tenancy of a tenant brought under the scheme of consolidation is subject to any lease, mortgage or other incumbrance, such lease, mortgage or other incumbrance shall be transferred and attached to the holding or tenancy allotted to him under the scheme or to such part of it as the Consolidation

Incumbrance of land-owners and tenants.

officer, subject to any rules that may be made under section 26, may fix in prepared such scheme; and thereupon shall cease to have effect against the land from which it has been transferred.

(2) Notwithstanding anything contained in section 11 the Consolidation officer shall, if necessary, put any lessee or any mortgagee or other incumbrancer entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage, or other incumbrance has been transferred under sub-section (1).

Transfer of
rights of
landowners
in holdings
and of
tenants in
tenancies.

14. Notwithstanding anything contained in the Jammu and Kashmir Land Revenue Act 1996, and the Jammu and Kashmir Tenancy Act II of 1980, the rights and liabilities of land-owners in their holdings and the tenants in their tenancies shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

Cost of con-
solidation
proceedings.

15. (1) The costs of consolidation proceedings shall be assessed in the manner provided by rules made under section 26.

(2) The cost of consolidation proceedings shall be recovered from the persons whose holdings are affected by the scheme of consolidation in such proportion as the Consolidation officer may determine.

Provided that the Government may in its direction by notification remit the costs of a single scheme of consolidation or of all schemes of consolidation in a particular area either in whole or in part or for a term of years.

Recovery of
compensa-
tion or costs
as arrear of
land revenue

16. Any amount payable as compensation under section 8 or as costs under section 15 may be recovered as an arrear of land revenue.

17. Notwithstanding anything contained in any law for the time being in force :—

- (a) No instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings, and
- (b) no such instrument, if executed, shall require registration.

18. Notwithstanding anything contained in section 5 of the Jammu and Kashmir Alienation of Land Act No (1) 5 of 1995 no exchange of land by a member of an agricultural tribe in pursuance of a scheme of consolidation of holdings shall require the sanction of the Wazir Wazarat under that Act.

(1) Vide Act III of 1996.

Transfer not
affected by
Jammu and
Kashmir
Alienation
of land Act
No. 6 and 7
of 1990.

19. When an application for the consolidation of holdings has been made under section 3, no proceedings under chapter X of the Jammu and Kashmir Land Revenue Act 1996, in respect of any estate or a sub-division of an estate which will be affected by the scheme of consolidation shall be commenced, and all such proceedings pending shall remain in abeyance, during the pendency of the consolidation proceedings.

Suspension of partition proceedings during currency of consolidation proceedings.

20. When an application for the consolidation of holdings has been made, no land-owner or tenant having a right of occupancy upon whom the scheme will be binding shall have power, without the sanction of the Consolidation officer, during the pendency of the consolidation proceedings, to transfer or otherwise deal with any part of his original holding or tenancy so as to affect the rights of any other land-owner or tenant having a right of occupancy therein under the scheme of consolidation.

Transfer of property during consolidation proceedings.

CHAPTER III—GENERAL.

21. The Government may by notification invest the Registrar with the powers of a Revenue Commissioner or Governor under this Act and an Assistant or Deputy Registrar with the powers of a Governor under this Act.

Investment of powers under this Act.

22. No Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order in respect of any matter which the Government or any officer is, by this Act empowered to determine, decide or dispose of.

Jurisdiction of Civil Court barred as regards matters arising under this Act.

23. No suit or other legal proceedings shall be maintained in respect of the exercise of any powers or discretion conferred by this Act or against any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the rules made thereunder.

Public servants indemnified for acts done under this Act.

24. The Government may, at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Power to call for and examine records

Provided that the Government shall not vary or reverse any order without having given to the parties interested notice to appear and to be heard in support of such order.

25. Save as provided in this Act, no appeal or revision shall lie from any order passed under this Act or the rules made thereunder.

No appeal except under section 9.

26. (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules ;—

- (a) prescribing the minimum area of land to be held by the persons making an application under sub-section (1) of section 3.
- (b) providing for the particulars to be contained in any application made under section 3;
- (c) providing for the procedure to be followed by the Consolidation officer in dealing with applications for the consolidation of holdings and for the appointment and constitution of an Advisory Committee or Panchayat to assist the Consolidation officer in the examination or preparation of the scheme :
- (d) providing for the manner in which the costs of the consolidation proceedings shall be assessed :
- (e) providing for the appointment of guardians *ad litem* for minors :
- (f) for determining the market value of lands and the compensation to be paid therefor under section 8;
- (g) for the guidance of the Consolidation officer in respect of the transfer of incumbrances and leases; and
- (h) generally for giving effect to the provisions of this Act and for the guidance of the Consolidation officer and other officers and persons in all proceedings under this Act.

**THE BOMBAY PREVENTION OF FRAGMENTATION
AND CONSOLIDATION OF HOLDINGS
ACT 1947**

BOMBAY ACT No LXII OF 1947.

An Act to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof ; It is hereby enacted as follows :—

CHAPTER I—PRELIMINARY.

1. (1) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act 1947.

Short title,
extent and
commencement.

(2) It extends to the whole of the Province of Bombay.

(3) It shall come into force in such areas and on such date as the Provincial Government may by notification in the *Official Gazette* direct.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) “agricultural year” means this year commencing on the first day of April ;

(2) “consolidation of holdings” means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings ;

(3) “Consolidation Officer” means an officer appointed as such under section 15 by the Provincial Government, and includes any person authorised by the Provincial Government to perform all or any of the functions of the Consolidation Officer under this Act ;

(4) “fragment” means a plot of land of less extent than the appropriate standard area determined under this Act ;

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion ;

(5) "land" means agricultural land whether alienated or unalienated ;

(6) "local area" means any area notified as such in the *Official Gazette* under section 3 ;

(7) "Mamlatdar" shall include a Mahalkari ;

(8) "Owner" means in the case of unalienated land the occupant and when such land has been mortgaged, owner means the mortgagor ; in the case of alienated land owner means the superior holder ;

(9) "prescribed" means prescribed by rules made under this Act ;

(10) "standard area" in respect of any class of land means the area which the Provincial Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section ;

(11) words and expressions used in this Act, but not defined, have the meaning assigned to them in the *Bom-Bay Land Revenue Code, 1879.*

Bom. V of
1879.

CHAPTER II—DETERMINATION OF LOCAL AND STANDARD AREAS AND TREATMENT OF FRAGMENTS.

Determina-
tion of local
area.

3. The Provincial Government may, after such inquiry as it deems fit, by notification in the *Official Gazette*, specify a village, mahal or taluka or any part thereof as a local area for the purposes of this Act.

Settlement
of standard
areas.

4. (1) The Provincial Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(2) The Provincial Government shall by notification in the *Official Gazette* and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

Determina-
tion and
vision of
standard
areas.

5. (1) The Provincial Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(2) The Provincial Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in section 4 and sub section (1).

(3) The Provincial Government shall, by notification in the *Official Gazette* and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

6. (1) On notification of a standard area under sub-section (3) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights, or where there is no Record of Rights in such village record as the Provincial Government may prescribe.

Entry in the Record of Rights.

Bom. V of 1879.

(2) Notice of every entry made under sub-section (1) shall be given in the manner prescribed for the giving of notice under the Bombay Land Revenue Code, 1879, of an entry in the register of mutations.

7. (1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

Transfer and lease of fragments.

Bom. XXIX of 1939.

(2) Notwithstanding anything contained in the Bombay Tenancy Act, 1939, no such fragment shall be *leased* to any person other than a person cultivating any land which is contiguous to the fragment.

8. No land in any local area shall be transferred or partitioned so as to create a fragment.

Fragmentation prohibited.

9. (1) The transfer or partition of any land contrary to the provisions of this Act shall be void.

Penalty for transfer or partition contrary to provisions of Act.

(2) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the Provincial Government, direct.

10. (1) Any owner of a fragment may transfer it to the Crown for the purposes of the Province on payment by the Crown of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the Crown for the purposes of the Province free from all encumbrances.

Transfer of fragment to Crowns.

Bom. V of 1879.

(2) Any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879.

partition of
state
assessed to
payment of
revenue to
Crown or
separation
of share
thereof.

Determination
of compen-
sation for
purposes of
section 10.

Amendment
of sections
117A and
117E of
Bom. V of
1879.

Provincial
Government
or local
authority
not to
acquire
land so as
to leave
fragment.

Government
may of its
own accord
or on
application
declare its
intention to
make
scheme for
consolida-
tion of
holdings.

Scheme to
provide for
compensa-
tion.

11. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the Crown in any local area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment. V of 1908.

12. In determining the compensation for the purposes of section 10 the Collector shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. I of 1894.

13. In section 117-A and 117-B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely :— Bom. V of 1879.

“Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.” Bom. LXII
of 1947.

14. Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Provincial Government or any local authority or sold at any sale held under the orders of any Court so as to leave a fragment.

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CHAPTER III—PROCEDURE FOR CONSOLIDATION.

15. With the object of consolidating holdings in any village, mahal or taluka or any part thereof for the purpose of better cultivation of lands therein, the Provincial Government may declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the Provincial Government may appoint a Consolidation Officer who shall proceed to prepare in the prescribed manner a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be.

16. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

(2) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.

I of 1894.

17. (1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right :

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(4) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the Provincial Government, be final.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place.

19. (1) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such pub-

Amalgamation of public roads etc., within scheme for consolidation of holdings.

Revocation of assignments of lands.

Publication of draft scheme.

lication, communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer shall, after considering the objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Commissioner.

(2) The Consolidation Officer shall also publish the scheme as amended by him.

Confirmation of schemes.

20. (1) If within thirty days of its publication no objections are received to the draft scheme published under sub-section (1) or the amended draft scheme published under sub-section (2) of section 19, as the case may be, the Settlement Commissioner shall confirm the scheme.

(2) If any objections are received to the amended draft scheme published under sub-section (2) of section 19, the Settlement Commissioner shall after taking the objections into consideration submit it with such modifications as he considers necessary to the Provincial Government.

(3) The Provincial Government may either confirm the scheme with or without modifications or refuse to confirm it;

Provided that the Provincial Government shall, if the scheme has been modified by the Settlement Commissioner under sub-section (2) publish it as so modified, and take into consideration the objections, if any, received within thirty days of such publication before acting under this sub-section.

Right to possession of new holdings.

21. (1) Upon the confirmation of the scheme under sub section (1) or (3) of section 20, the scheme as confirmed shall be published in the *Official Gazette* and also in the prescribed manner in the village or villages concerned, and if all the owners affected by such scheme agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners affected by the scheme do not agree to enter into possession under sub-section (1) they shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of its publication in the *Official Gazette* under sub-section (1) and the Consolidation Officer shall, if necessary, put them in possession of the holdings to which they are so entitled, and for doing so may in the prescribed manner evict any person from any land.

(3) Notwithstanding anything contained in sub-section (2) no owner shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the

prescribed manner within fifteen days of the commencement of the said agricultural year such compensation as is recoverable from him under the scheme.

(4) where an owner fails to comply with the provisions of sub-section (3) his right in such holding may be allotted in the prescribed manner by the Consolidation officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner and any other person having an interest in the holding.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

Coming into force of scheme.

Certain laws no ban on transfer of holdings.

Certificate of transfer.

XVI of 1908.

24. (1) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (4) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme.

(2) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

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XIX of 1883.
XII of 1884.

25. For carrying out any of the purpose of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act 1884.

Loans to assist consolidation.

CHAPTER IV —EFFECT OF CONSOLIDATION PROCEEDINGS AND OF CONSOLIDATION OF HOLDINGS.

Bom. V of 1879.
Bom. II of 1906.
Bom.
XXIX of 1939.

26. (1) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars Courts Act, 1906, and the Bombay Tenancy Act, 1939; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15.

Exercise by Consolidation Officer of powers under certain Acts.

(2) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

- (a) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation officer; and
- (b) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it:

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(3) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

Stay of proceedings under sections 153 and 155 of Bom. V of 1879; ban on transfer of land during continuance of consolidation proceedings.

Rights in holdings.

27. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

- (a) no proceedings under section 153 or 155 of the Bombay Land Revenue Code, 1879, in respect of any land in respect of which a notification has been issued under section 15 shall be commenced; and all such proceedings if commenced shall be stayed;
- (b) no person shall transfer any land in respect of which a notification under section 15 has been issued.

28. Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall have the same rights in such holding as he had in his original holding:

provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (4) of section 21.

Bom. V of 1879.
Bom. II of 1806.
Bom. XXIX of 1939.

Bom. V of 1879.

29. (1) If the holding of an owner included in a scheme of consolidation which has come into force under section 22 is burdened with a lease, mortgage, debt or other encumbrance, such lease, mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint ; and the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

Transfer of encumbrances.

(2) If the holding to which a lease, mortgage, debt or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any lessee, mortgagee or other encumbrancer entitled to possession into possession of the holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

30. Where there is a dispute in respect of the apportionment of—

- (a) the amount of compensation determined under sub-section (2) of section 16 or sub-section (4) of section 17 ;
- (b) the net value realized under sub-section (4) of section 21 ;
- (c) the total amount of compensation determined under sub-section (2) of section 29, the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and there-upon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may, apply.

Apportionment of compensation or net value in case of dispute.

1 of 1894.

31. Notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall—

- (a) transfer any holding or part thereof except in accordance with such conditions as may be prescribed ;
- (b) except with the permission in writing of the Provincial Government, sub-divide such holding.

Alienation and sub-division of consolidated holdings.

32. (1) If after a scheme has come into force it appears to the Provincial Government that the scheme is defective on account of an error, irregularity or informality the Provincial Government shall publish a draft of such

Power to vary scheme on ground of error, irregularity or informality.

variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme.

(2) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the Provincial Government through the Settlement Commissioner.

(3) After receiving the objections under sub-section (2) the Provincial Government may, after making such enquiry as it may think fit, by notification in the *Official Gazette*, make the variation with or without modifications or may not make any variation

(4) From the date of the notification making the variation, shall take effect as if it were incorporated in the scheme.

Power to vary or revoke scheme.

33. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

CHAPTER V—GENERAL.

Vesting of powers of Settlement Commissioner.

34. The Provincial Government may, by notification in the *Official Gazette*, invest the Collector with all or any of the powers of the Settlement Commissioner under this Act.

Power of Provincial Government to call for proceedings.

35. The Provincial Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Appeal and revision.

36. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Rules.

37. (1) The Provincial Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules, providing for—

- (a) the manner of publication under sub-section (2) of section 4;
- (b) the manner of giving public notice under sub-section (3) of section 5;

- (c) village records in which fragments shall be entered under sub-section (1) of section 6 ;
- (d) the manner in which the intention to make a scheme shall be published and the manner of preparation of the scheme under section 15 ;
- (e) the manner of publication under sub-section (2) of section 17 of a declaration made under sub-section (1) of the said section ;
- (f) the manner in which a draft scheme of consolidation shall be published under sub-section (1) of section 19 in the village or villages concerned ;
- (g) the manner of publication of a scheme under sub-section (1) of section 21, on its being confirmed ;
- (h) the manner in which a person may be evicted under sub-section (2) of section 21 ;
- (i) the manner in which compensation recoverable from an owner shall be deposited by him under sub-section (3) of section 21 ;
- (j) the manner in which right of holding may be allotted under sub-section (4) of section 21 ;
- (k) the form in which a certificate shall be granted under section 24 ;
- (l) the period within which an application shall be made under clause (b) of sub-section (2) of section 26 ;
- (m) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a lease, mortgage, debt or other encumbrance under sub-section (1) of section 29 ;
- (n) the conditions in accordance with which holdings may be transferred under clause (a) of section 31 ;
- (o) the manner of publication of a draft variation under sub-section (1) of section 32 ;
- (p) the manner in which the area and assessment (including water-rate if any) of each reconstituted holding or part of such holding shall be determined ;
- (q) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation ;
- (r) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act ;
- (s) any other matter which is to be or may be prescribed.

(3) All rules made under the section shall be subject to the condition of previous publication.

**THE EAST PUNJAB HOLDINGS (CONSOLIDATION
AND PREVENTION OF FRAGMENTATION)
ACT, 1948.**

EAST PUNJAB ACT NO. L. OF 1948.

An Act to provide for the compulsory consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in the Province of East Punjab.

CHAPTER I—PRELIMINARY.

It is hereby enacted as follows :—

**Short title,
extent and
commencement.**

1. (1) This Act may be called the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

(2) It extends to the whole of the Province of East Punjab.

(3) This section shall come into force at once and the remaining provisions of the Act shall come into force in such area and from such date as the Provincial Government may by notification appoint in this behalf, and different dates may be appointed for the coming into force of different provisions of the Act.

Interpretation.

2. In this Act, unless there is anything repugnant in the subject or context—

(a) “Consolidation Officer” means an officer appointed as such under section 14 by the Provincial Government and includes any person authorised by the Provincial Government to perform all or any of the functions of the Consolidation Officer under this Act ;

(b) “Consolidation of Holdings” means the amalgamation and the redistribution of all or any of the lands in an estate or subdivision of an estate so as to reduce the number of plots in the holdings ;

(c) “fragment” means a plot of land of less extent than the appropriate standard area determined under this Act :

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion ;

(d) “land” means land which is not occupied as the site of any building in a town or village and is occupied or left for agricultural purposes or for purposes subservient to agriculture, or for pasture and includes the sites of buildings and other structures on such land ;

(e) “notified area” means any area notified as such under section 3 ;

(f) "owner" means in the case of unalienated land the lawful occupant and when such land has been mortgaged, owner means the mortgagor ; in the case of alienated land, owner means the superior holder ;

(g) "prescribed" means prescribed by rules made under this Act ;

(h) "Settlement Officer (Consolidation)" means an officer appointed as such under section 20 by the Provincial Government and includes any person authorised by the Provincial Government to perform all or any of the functions of the Settlement Officer (Consolidation) under this Act ;

(i) "standard area" in respect of any class of land means the area which the Provincial Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular notified area, and includes a standard area revised under the said section ;

(j) "subdivision" means a part of an estate recorded as a subdivision *patti*, *taraf*, or *pana* in a record of rights prepared under section 31 of the Punjab Land Revenue Act, 1887, provided it forms a compact block ; and

(k) words and expressions used in this Act but not defined, have the meaning assigned to them in the Punjab Land Revenue Act, 1887.

XVII of
1887

XVII of
1887

CHAPTER II—DETERMINATION OF STANDARD AREAS AND TREATMENT OF FRAGMENTS.

3 The Provincial Government may, after such inquiry as it deems fit, specify any estate or subdivision of an estate as a notified area for the purposes of this Chapter of this Act.

Determina-
tion of
notified
area.

4 (1) The Provincial Government may, after such inquiry as it deems fit, provisionally settle for any class of land in any notified area the minimum area that can be cultivated profitably as a separate plot.

Settlement
of standard.

(2) The Provincial Government shall by notification and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

5. (1) The Provincial Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the estate concerned and making

Determina-
tion and
revisions of
standard
areas.

such further inquiry as it may deem fit, determine the standard area for each class of land in such notified area.

(2) The Provincial Government may, at any time, if it deems it expedient so to do, revise a standard area determined under subsection (1). Such revision shall be made in the manner laid down in section 4 and subsection (1) of section 5.

(3) The Provincial Government shall, by notification and in such other manner as may be prescribed, give public notice of any standard area determined under subsection (1) or revised under subsection (2).

Entry in the record of rights.

6. (1) On notification of a standard area under subsection (3) of section 5 for a local area all fragments in the local area shall be entered as such in the record of rights.

(2) Notice of every entry made under subsection (1) shall be given in the prescribed manner.

Transfer and lease of fragments.

7. (1) No person shall transfer any fragment in respect of which a notice has been given under subsection (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised subdivision of a survey number.

(2) Notwithstanding anything contained in the Punjab Tenancy Act, 1887, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

XVI of 1887

Fragmentation prohibited.

8. No land in any Notified area shall be transferred or partitioned so as to create a fragment.

Penalty for transfer or partition contrary to provisions of Act.

9. The transfer or partition of any land contrary to the provisions of this Act shall be void.

Valuation of fragment.

10 Any owner of a fragment who intends to sell it shall make an application in this behalf to the Collector for determination of its market price and the Collector shall, after hearing the applicant and the owners of the contiguous survey numbers or recognized subdivisions of survey numbers determine the market price, and such determination shall be final and conclusive for the purposes of this Chapter.

Transfer of fragment.

11. The owner referred to in the preceding section shall in the first instance offer the fragment for sale to the owners of contiguous survey numbers or recognized subdivisions of survey numbers, and in case of their refusal to purchase for the price as determined under the

last preceding section, may transfer it to the Crown for the purpose of the Province on payment by the Crown of such price as aforesaid to persons possessing interest therein as the Collector may determine, and thereupon the fragment shall vest absolutely in the Crown for the purpose of the Province free from all encumbrances.

V of 1908

12. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the Crown in any notified area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment.

Portion of estate assessed to payment of revenue to Crown or separation of share thereof.

13. (1) Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Provincial Government or any local authority or sold at any sale held under the orders of any court so as to leave a fragment.

Provincial Government or local authority not to acquire land so as to leave fragment.

(2) If any land acquired by the Provincial Government or any local authority is in excess of its requirements, it shall be offered for sale in the first instance to the owners of contiguous survey numbers or recognized subdivisions of survey numbers at the price at which it was acquired under subsection (1).

CHAPTER III—CONSOLIDATION OF HOLDINGS.

14. (1) With the object of consolidating holdings in any estate or group of estates or any part thereof for the purpose of better cultivation of lands therein, the Provincial Government may of its own motion or on application made in this behalf declare by notification and by publication in the prescribed manner in the estate or estates concerned its intention to make a scheme for the consolidation of holdings in such estate or estates or part thereof as may be specified.

Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

(2) On such publication in the estate concerned the Provincial Government may appoint a Consolidation Officer who shall after obtaining in the prescribed manner the advice of the landowners of the estate or estates concerned, prepare a scheme for the consolidation of holdings in such estate or estates or part thereof as the case may be.

15. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

Scheme to provide for compensation.

(2) The amount of compensation shall be assessed by the Consolidation Officer, so far as practicable, in accordance with the provisions of subsection (1) of section 23 of the Land Acquisition Act, 1894.

1 of 1894.

16. (1) The scheme prepared by the Consolidation Officer may provide for the distribution of land held under occupancy tenure between the tenants holding a right of occupancy and his landlord in such proportion as may be agreed upon between the parties.

(2) When the scheme is finally sanctioned under section 20 the land so allotted to the occupancy tenant and the landlord shall, notwithstanding anything to the contrary contained in the Punjab Tenancy Act, or in any other law for the time being in force, be held by each of them respectively in full right of ownership, and the right of occupancy in the land allotted to the landlord shall be deemed to be extinguished.

XVI of 1878.

Amalgamation of public roads, etc., within scheme for consolidation of holdings.

17. (1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes with any holding in the scheme he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be extinguished or, as the case may be, transferred to a new road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes laid out in the scheme of consolidation.

(2) The declaration in subsection (1) shall be published in the estate concerned in the prescribed manner along with the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under subsection (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right :

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes shall be entertained.

(4) The Consolidation Officer shall, after considering the objections if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Officer (Consolidation), together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such recompensation is payable. The decision of the Settlement Officer (Consolidation), on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall be final.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct—

- (a) that any land specifically assigned for any common purpose shall cease to be so assigned and to assign any other land in its place ;
- (b) that any land under the bed of a stream or torrent flowing through or from the Siwalik mountain range within the Province shall be assigned for any common purpose ;
- (c) that if in any area under consolidation no land is reserved for any common purpose including extension of the village abadi, or if the land so reserved is inadequate, to assign other land for such purpose.

19. (1) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the estate or estates concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer shall, after considering the objections, if any, received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Officer (Consolidation).

(2) The Consolidation Officer shall also publish in the prescribed manner the scheme as amended by him.

20. (1) The Provincial Government may by notification appoint one or more persons to be Settlement Officers (Consolidation) and, by like notification, specify the area in which each such officer shall have jurisdiction. The Consolidation Officers in the area under the jurisdiction of the Settlement Officer (Consolidation) shall be subordinate to him subject to any conditions which may be prescribed.

Lands reserved for common purposes.

Publication of draft scheme.

Confirmation of scheme.

(2) If no objections are received to the draft scheme published under subsection (1) or within thirty days of its publication to the amended draft scheme published under subsection (2) of section 19, as the case may be, the Settlement Officer (Consolidation) shall confirm the scheme.

(3) If any objections are received to the amended draft scheme published under subsection (2) of section 19, the Settlement Officer (Consolidation) shall, after taking the objections into consideration, either confirm the scheme with or without modifications or refuse to confirm it.

(4) Upon the confirmation of the scheme under subsection (2) or (3), the scheme as confirmed shall be published in the prescribed manner of the estate or estates concerned.

Repartition.

21. (1) The Consolidation Officer shall after obtaining the advice of the landowners of the estate or estates concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 20, and the boundaries of the holdings as demarcated shall be shown on the *shajra* which shall be published in the prescribed manner in the estate or estates concerned.

(2) Any person aggrieved by the repartition may file a written objection within fifteen days of the publication before the Consolidation Officer who shall after hearing the objector pass such orders as he considers proper confirming or modifying the repartition.

(3) Any person aggrieved by the order of the Consolidation Officer under subsection (2) may within one month of that order file an appeal before the Settlement Officer (Consolidation) who shall after hearing the appellant pass such order as he considers proper.

(4) Any person aggrieved by the order of the Settlement Officer (Consolidation) under subsection (3) may within sixty days of that order appeal to the Provincial Government. The order of the Provincial Government on such appeal, and subject only to such order, the order of the Settlement Officer (Consolidation) under subsection (3) or, if the order of the Consolidation Officer under subsection (2) was not appealed against, such order of the Consolidation Officer shall be final and shall not be liable to be called in question in any court.

22. (1) The Consolidation Officer shall cause to be prepared a new record of rights in accordance with the provisions contained in Chapter IV of the Punjab Land Revenue Act, 1887, in so far as these provisions may be applicable, for the area under consolidation, giving effect to the repartition as finally sanctioned under the preceding section.

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f record of
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XVII of
1887

(2) Such record of rights shall be deemed to have been prepared under section 32 of the Punjab Land Revenue Act, 1887.

23. (1) If all the owners and tenants affected by the scheme of consolidation or, as the case may be, repartition as finally confirmed, agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

Rights to
possession of
new held-
ings.XVII of
1887

(2) If all the owners and tenants as aforesaid do not agree to enter into possession under subsection (1) they shall be entitled to possession of the holdings and tenancies allotted to them from the commencement of the agricultural year next following the date of the publication of the scheme under subsection (4) of section 20, or, as the case may be, of the preparation of the new record of rights under subsection (1) of section 22, and the Consolidation Officer shall, if necessary, put them in physical possession of the holding to which they are so entitled, including standing crops, if any, and for doing so may exercise the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887.

(3) If there are standing crops on any holding of which possession has been given under subsection (2), the Consolidation Officer shall determine in the prescribed manner the compensation payable in respect of such crops by the person put in possession, who shall, within six months of the date of possession, pay such compensation to the person or persons from whom possession was transferred, and in case of default such compensation shall be recoverable from him as an arrear of land revenue.

(4) If any person from whom compensation is recoverable under the scheme fails within 15 days of the commencement of the agricultural year referred to in subsection (2) to deposit such compensation in the prescribed manner, it shall be recoverable from him as an arrear of land revenue, and in such case the amount realised after deducting the expense, shall be paid to any person having the interest in the holding.

24. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Coming into
force of
scheme

25 A landowner or a tenant shall subject to the provisions of section 16 have the same right in the land allotted to him in pursuance of the scheme of consolidation as he had in his original holding or tenancy as the case may be.

Rights of
landowners
and tenants
after consoli-
dation same
as before.

encumbrances of landowners and tenants.

26. (1) If the holding of a landowner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the Consolidation Officer subject to any rules that may be made under section 46, may have determined in preparing the scheme; and thereupon the lessee, mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred.

(2) If the holding or tenancy to which a lease, mortgage, or other encumbrance is transferred under subsection (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrancer, as the case may be, shall subject to the provisions of section 34 be entitled to the payment of such compensation by the owner of the holding, or as the case may be, the tenant as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 23, the Consolidation Officer shall if necessary put any lessee or any mortgagee or other encumbrancer entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage or other encumbrance has been transferred under subsection (1).

Transfer of rights of landowners in holdings and of tenants in tenancies.

27. Notwithstanding anything contained in the Punjab Land Revenue Act, 1887, and the Punjab Tenancy Act, 1887, the rights and liabilities of landowners in their holdings and of tenants in their tenancies shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

Cost of consolidation proceedings.

28. (1) The cost of consolidation proceedings shall be assessed in the prescribed manner.

(2) The cost of consolidation proceedings shall be recovered from the persons whose holdings are affected by the scheme of consolidation.

29. Compensation under section 15 or costs under section 28 or any other sums due payable under this Act shall be recoverable as an arrear of land revenue.

Recovery of compensation or costs or other sums payable under this Act.

Transfer of property during consolidation proceedings.

30. After a notification under subsection (1) of section 14 has issued and during the pendency of the consolidation proceedings no landowner or tenant having a right of occupancy upon whom the scheme will be binding shall have power without the sanction of the Consolidation

Punjab Act
XIII of
1900.

Officer to transfer or otherwise deal with any portion of his original holding or other tenancy so as to affect the rights of any other landowner or tenant having a right of occupancy therein under the scheme of consolidation.

31. Notwithstanding anything contained in section 3 of the Punjab Alienation of Land Act, 1900, no exchange of land by a member of an agricultural tribe in pursuance of a scheme of consolidation of holdings shall require the sanction of the Deputy Commissioner under the Act.

Transfer not affected by Punjab Alienation of Land Act, 1900.

32. After a notification under subsection (1) of section 14 has issued no proceedings under Chapter IX of the Punjab Land Revenue Act, 1887, in respect of any estate or a subdivision of an estate which will be affected by the scheme of consolidation shall be commenced, and such proceedings pending shall remain in abeyance during the pendency of the consolidation proceedings

Suspension of partition proceedings during currency of consolidation proceedings.

33. Notwithstanding anything contained in any law for the time being in force—

- (a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings, and
- (b) no instrument, if executed, shall require registration.

No instrument necessary in effect transfer.

34. Where there is a dispute in respect of the apportionment of—

- (a) the amount of compensation determined under subsection (2) of section 15, or subsection (4) of section 17;
- (b) the net value realised under subsection (4) of section 23;
- (c) the total amount of compensation determined under subsection (2) of section 26, the Consolidation Officer shall refer the dispute to the decision of the Civil Court and deposit the amount of compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may be apply.

Apportionment of compensation or net value in case of dispute.

35. In any estate or group of estates or any part thereof where consolidation of holdings has been effected under this Chapter, the Provincial Government shall, as soon as may be, take all necessary steps to apply the provisions of Chapter II.

Application of Chapter II to consolidated holdings.

II of 1894

36. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

Power to vary or revoke scheme.

CHAPTER IV—OTHER POWERS OF CONSOLIDATION OFFICERS.

Power of officers to enter upon land for purposes of survey and demarcation.

Penalty for destruction, injury or removal of survey marks.

Report of destruction or removal or injury to survey mark.

Power of Consolidation Officer or Settlement Officer (Consolidation) to summon persons.

37. The Consolidation Officer and any person acting under his orders may, in the discharge of any duty under this Act, enter upon and survey land and erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for the proper performance of that duty.

38. (1) If any person wilfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Consolidation Officer to pay such fine not exceeding fifty rupees for each mark so destroyed injured or removed, as may, in the opinion of that officer be necessary to defray the expenses of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code.

XLV of 1860

39. Every village officer of an estate shall be legally bound to furnish a Consolidation Officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

40. (1) A Consolidation Officer or a Settlement Officer (Consolidation) may summon any person whose attendance he considers necessary for the purpose of any business before him as a Consolidation Officer or a Settlement Officer (Consolidation).

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognised agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or make statements and to produce such documents and other things relating to any such matter as the Consolidation Officer or the Settlement Officer (Consolidation) may require.

— — —

CHAPTER V—GENERAL.

Appointment of officers and staff and delegation of powers.

41. (1) The Provincial Government may for the administration of this Act, appoint such persons as it thinks fit, and may by notification delegate any of its powers or functions under this Act to any of its officers either by name or designation.

(2) A Consolidation Officer or a Settlement Officer (Consolidation) may, with the sanction of the Provincial Government, delegate any of its powers or functions under this Act to any person in the service of the Provincial Government.

42. The Provincial Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit :

Provided that no order shall be varied or reversed without giving the parties interested notice to appear and opportunity to be heard.

43. Except as provided in this Act no appeal or revision shall lie from any order passed under this Act.

44. No civil court shall entertain any suit instituted or application made, to obtain a decision or order in respect of any matter which the Provincial Government or any officer is, by this Act, empowered to determine, decide or dispose of.

45. No suit or other legal proceedings shall be maintained in respect of the exercise of any powers or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

46. (1) The Provincial Government may by notification Rules. make rules for carrying out the purpose of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules providing for—

- (a) the manner of publication under subsection (2) of section 4, subsection (1) of section 14, subsections (1) and (2) of section 19, subsection (4) of section 20 and subsection (1) of section 21 ;
- (b) the manner of giving public notice under subsection (3) of section 5 ;
- (c) the manner of giving notice under subsection (2) of section 6 ;
- (d) the procedure to be followed in the preparation of the scheme under subsection (2) of section 14 ;

Power of Provincial Government to call for proceedings.

Appeal and revision.

Jurisdiction of civil court barred as regards matters arising under this Act.

Public servants indemnified for acts done under this Act.

- (e) the manner in which the area is to be reserved under section 18 and the manner in which it is to be dealt with and also the manner in which the village abadi is to be given to proprietors and non-proprietors (including scheduled castes, Sikh backward classes, artisans and labourers) on payment of compensation or otherwise ;
- (f) the manner in which compensation recoverable from any person under subsection (3) of section 23 shall be deposited by him ;
- (g) the guidance of the Consolidation Officer in respect of the transfer of a lease, mortgage or other encumbrance under section 26 ;
- (h) the manner in which the area and assessment (including water-rate, if any) of each reconstituted holding and tenancy shall be determined ;
- (i) the appointment of guardians *ad litem* for minors ;
- (j) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act ; and
- (k) any other matter which is to be or may be prescribed.

(3) All rules made under this section shall be subject to the conditions of previous publication.

Repeals.

47. The enactments mentioned in the schedule are hereby repealed.

THE SCHEDULE

(See Section 47)

Enactments Repealed

| <i>Year</i> | <i>No.</i> | <i>Short title.</i> |
|-------------|------------|---|
| 1936 | IV | The Punjab Consolidation of Holdings Act 1936. |
| 1940 | IX | The Punjab Consolidation of Holdings (Amendment) Act, 1940. |
| 1945 | II | The Punjab Consolidation of Holdings (Amendment) Act, 1945. |

DELHI

THE PUNJAB CONSOLIDATION OF
HOLDINGS ACT, 1936

(ACT IV OF 1936)

WHEREAS it is expedient to facilitate the consolidation of holdings in the Punjab, and whereas the previous sanction of the Governor-General required under section 80-A (3) of the Government of India Act has been obtained it is hereby enacted as follows :—

Preamble.

CHAPTER I—PRELIMINARY.

1. (1) This Act may be called the Punjab Consolidation of Holdings Act 1936.

Short title,
extent and
commencement,

a(2) It shall apply to all areas in the Punjab to which the [Provincial Government] may extend it by notification in the Official Gazette from such date as may be specified in the notification, ²[* * *]

3[“1-A. In relation to any society having as its object the consolidation of holdings, and registered or deemed to be registered under the Co-operative Societies Act, 1912, nothing contained in this Act shall affect the validity or enforceability of—

(a) the acts or proceedings of any society as aforesaid, or of its managing committee or servants ;

(b) any decision of any society as aforesaid, approving by a two-thirds majority of its whole membership a scheme for the re-arrangement of the holdings of all or any members of such society ; or

(c) the acts, proceedings and awards done, taken or made by the Registrar acting as arbitrator, or by a person appointed by the Registrar, in accordance with the by-laws of such society and the rules made by the Provincial Government under the Co-operative Societies Act, 1912, to act as arbitrator, in respect of any dispute arising out of or relating to any scheme of re-arrangement as aforesaid ;

II of 1912

II of 1912

but all such acts, proceedings, decisions and awards shall have such effect in relation to the holdings which have been re-arranged thereby as is provided by the aforesaid by-laws and rules.”]

¹For Statement of Objects and Reasons, See the *Punjab Gazette*, 1916, Extraordinary pages 147-48, and for Proceedings in Council, See the Punjab Legislative Council Debates, Volume XXIX, pages 71—102.

^aSubstituted for the words “Local Government” by the Government of India (adaptation of Indian Laws) Order, 1937.

³Ins. by s 3 Punjab Act II of 1945.

2. Omitted by S. 2 of Punjab Act II of 1945.

Definitions.

2. (1) In this Act—

(a) "Holding" means a share or portion of an estate held by one landowner or jointly by two or more landowners.

(b) "Consolidation of Holdings" means the redistribution of all or any of the lands in an estate or subdivision of an estate so as to reduce the number of plots in the holdings.

(c) "Consolidation Officer" means any officer or class of officer invested by general or special order by the ¹[Provincial Government] with the powers of a consolidation officer under this Act and appointed by the ¹[Provincial Government] to perform the duties of a consolidation officer within any area.

²[("d) 'Registrar' means the person appointed to perform the duties of a Registrar under the Co-operative Societies Act, 1912.]

(e) "Sub-division" means a part of an estate recorded as a sub-division, *patti*, *taraf* or *panna* in a record of rights prepared under section 31 of the Punjab Land Revenue Act, 1887, provided it forms a compact block.

(2) Unless there is anything repugnant in the subject or context, any expression used in this Act, which is defined or explained in the Punjab Land Revenue Act, 1887, or the Punjab Tenancy Act, 1887, shall have the meaning assigned to it therein.

II of 1912

XVII of 1887.

XVII of 1887.

XVI of 1887.

CHAPTER II—CONSOLIDATION OF HOLDINGS.

Who may apply for consolidation of holdings.

3. (1) Any two or more landowners in an estate or a sub-division of an estate holding together not less than the minimum area of land prescribed by rules made under section 26 may make an application in writing to the consolidation officer for the consolidation of their holdings.

(2) If not less than two-thirds of landowners in an estate or sub-division of an estate, holding not less than three-fourths of the cultivated area in the estate or the sub-division of the estate, make an application for consolidation of their holdings, or, if on enquiry into an application made under sub-section (1) the consolidation officer is satisfied that not less than two-thirds of the landowners holding not less than three-fourths of the cultivated area, agree, in writing, to the consolidation of their holdings, the application shall be deemed to be an application on behalf of all the landowners in the estate or the sub-division of the estate.

¹Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

²Sub. by S. 4 of Punjab Act II of 1945.

(3) If in a case falling under sub-section (2) any scheme of consolidation of holdings is confirmed, it shall be binding on all the landowners of the estate or sub-division of the estate on any person having a right or interest in the area included in the scheme and on any person who may subsequently be entitled to hold or occupy the land, or to any right or interest in the said area.

(4) In any other case any scheme of consolidation of holdings shall be confined to land owned by the applicants and by other landowners who have agreed to the consolidation of their holdings, and, if confirmed, it shall be binding on them, on any person having a right or interest in the area included in the scheme and on any person who may subsequently be entitled to hold or occupy the land or to any right or interest included in the scheme.

4. (1) If on receipt of any application for consolidation at any stage of the proceeding thereon, there appears to be good and sufficient reason for disallowing the application, or for excluding any land from consolidation, the consolidation officer may submit the application to the Collector with a recommendation that the application be rejected in whole or in part or that the proceedings be quashed.

Recommendation of Consolidation Officer to Collector.

(2) The Collector on receipt of the recommendation may pass such orders thereon as he deems proper, rejecting or accepting it, either in whole or in part, or he may direct the consolidation officer to make further recommendation after enquiry.

5. If the consolidation officer make no recommendation to the Collector, or if the Collector allows the application on recommendation to him, to be entertained in whole or in part, the consolidation officer shall admit the application in whole or in part, as may be, and shall proceed to deal with it in accordance with the procedure prescribed in this Act and in the rules made under section 26 of this Act.

Admission of application.

6. (1) If the landowners making the application under section 3 submit a scheme of consolidation of holdings mutually agreed to, the consolidation officer shall, in the manner prescribed by rules under section 26, examine it and, if necessary, modify it.

Preparation of scheme for consolidation of holdings and appointment of an advisory committee.

(2) If no scheme is submitted with the application the consolidation officer shall prepare a scheme for the consolidation of holdings in the manner prescribed by rules under section 26.

(3) As regards a scheme submitted under sub-section (1) or prepared under sub-section (2) the consolidation officer shall, before approving any scheme, consider the

objection, if any, of any person, having a right of occupancy under the provisions of the Punjab Tenancy Act, 1887, to the scheme of consolidation.

XVI of 1887.

(4) The consolidation officer may, subject to any rules made by the ¹[Provincial Government] under clause (c) of sub-section (2) of section 26 of this Act, appoint an advisory committee or panchayat to assist him in the preparation of a scheme for the consolidation of holdings.

Removal of
objections
and con-
firmation of
the scheme.

7. (1) When a scheme of consolidation has been prepared, the consolidation officer shall consider and, as far as possible, remove the objections, if any, made to the scheme by any person interested in it.

(2) If the consolidation officer succeeds in removing all the objections, or if there is no objection, he shall pass an order confirming the scheme of consolidation.

(3) If the consolidation officer fails to remove any objection, he shall submit the scheme with his recommendation to the Collector, who, after giving notice to the persons concerned and hearing them, if they so desire, may reject the scheme or confirm it with or without modification as he deems proper, or may make or cause to be made such further enquiry as he may think necessary, and thereafter may reject the scheme or confirm it with or without modification as he deems proper.

Payment of
compensa-
tion.

8. If the consolidation officer or the Collector as may be, is of the opinion that the re distribution of land in accordance with the scheme of consolidation confirmed by him will have the result of allotting to any landowner any piece of land of a less market value than his original piece of land and that it is equitable that compensation should be granted, the scheme may provide for payment of compensation, in regard to such piece of land, to be paid by and to such persons affected by the scheme, as may be provided in the scheme.

Appeals.

9. (1) Any person aggrieved by an order of the consolidation officer confirming the scheme may, within sixty days from the date of the order, prefer an appeal to the Collector.

(2) A second appeal from the order of the Collector passed on an appeal under sub-section (1) shall lie to the Commissioner within sixty days from the date of the order; provided that when the order of the consolidation officer is confirmed on appeal by the Collector, no second appeal shall lie.

¹Substituted for the words 'Local Government' by the Government of India (Adaptation of Indian Laws) Order 1937.

(3) Any person aggrieved by an order of the Collector, made under sub-section (3) of section 7 confirming, rejecting or modifying a scheme of consolidation submitted to him by the consolidation officer may, within sixty days from the date of the order, prefer an appeal to the Commissioner.

10. (1) Upon the final confirmation of the scheme of consolidation, the consolidation officer shall, if necessary, demarcate the boundaries of the holdings and shall proceed to announce the decision finally made and shall cause to be prepared a new record of rights in accordance with the scheme for the holdings affected by the consolidation.

Procedure on confirmation.

(2) Such record of right shall be deemed to have been prepared under sub-section (1) of section ¹[32] of the Punjab Land Revenue Act, 1887.

XVII of 1887.

11 The land owners and tenants affected by the scheme of consolidation, shall be entitled to possession of the holdings and tenancies allotted to them under the scheme, and the consolidation officer shall by order direct that they be put in possession thereof from such date as he may deem expedient after the final confirmation of the scheme and may, if necessary, exercise the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887, in order to give possession

Right of landowners and tenants to possession of holdings and tenancies.

XVII of 1887.

12. A landowner or a tenant shall have the same right in the holding or land allotted to him in pursuance of a scheme of consolidation as he had in his original holding or tenancy, as the case may be.

Rights of landowners and tenants after consolidation same as before,

13 (1) If the holding of a landowner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other incumbrance, such lease, mortgage or other incumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the consolidation officer, subject to any rules that may be made under section 26, may have appointed in preparing the scheme and thereupon the lessee, mortgagee or other incumbrancer, as may be, shall cease to have any right in or against the land from which the lease, mortgage or other incumbrance has been transferred.

Incumbrances of landowners and tenants.

(2) Notwithstanding anything contained in section 11 the consolidation officer shall, if necessary, put any lessee or any mortgagee or other incumbrancer, entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage, or other incumbrance has been transferred under sub-section (1).

¹Sub by 8

Transfer of rights of landowners in holdings and of tenants in tenancies.

14. Notwithstanding anything contained in the Punjab Land Revenue, Act, 1887, and the Punjab Tenancy Act, 1887, the rights and liabilities of landowners in their holdings and of tenants in their tenancies shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

XVII of 1887.
XVI of 1887.

Cost of consolidation proceedings.

15. (1) The cost of consolidation proceedings shall be assessed in the manner provided by rules made under section 26.

(2) The cost of consolidation proceedings shall be recovered from the persons whose holdings are affected by the scheme of consolidation.

Provided that the ¹[Provincial Government] may ²[* * * * *] by notification remit the cost of a single scheme of consolidation or of all schemes of consolidations in a particular area either in whole or in part or for a term of years.

Recovery of compensation or costs as arrears of land revenue.
No instrument necessary to effect transfer.

16. Any amount payable as compensation under section 8 or as costs under section 15 may be recovered as an arrears of land revenue.

17. Notwithstanding anything contained in any law for the time being in force :—

- (a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings; and
- (b) no instrument, if executed, shall require registration.

Transfer not effected by Punjab Alienation of Land Act, 1900.

18. Notwithstanding anything contained in section 3 of the Punjab Alienation of Land Act, 1900, no exchange of land by a member of an agricultural tribe in pursuance of a scheme of consolidation of holdings shall require the sanction of Deputy Commissioner under the Act, unless the land exchanged differs *substantially in value* from that taken in exchange.

XIII of 1900.

Suspension of partition proceedings during currency of consolidation proceedings.

19. When an application for the consolidation of holdings has been made under section 3 no proceedings under Chapter IX of the Punjab Land Revenue Act, 1887, in respect of any estate or a sub-division of an estate which will be affected by the scheme of consolidation shall be commenced, and all such proceedings pending shall remain in abeyance, during the pendency of the consolidation proceedings.

XVII of 1887.

1. Submitted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order. 1937.

2. The words "in the discretion" were omitted by the Government of India (Adaptation of Indian Laws) Order. 1937.

20. When an application for the consolidation of holdings has been made, no landowner or tenant having a right of occupancy upon whom the scheme will be binding shall have power, without the sanction of the consolidation officer, during the pendency of the consolidation proceedings, to transfer or otherwise deal with any part of his original holding or tenancy so as to affect the rights of any other landowner or tenant having a right of occupancy therein under the scheme of consolidation.

Transfer of property of during consolidation proceedings.

CHAPTER III.—GENERAL.

21.¹

¹[Invest-
ment of
powers
under this
Act.]

22. No civil court shall entertain any suit instituted, or application made, to obtain a decision or order in respect of any matter which the ²[Provincial Government] or any officer is, by this Act, empowered to determine, decide or dispose of.

Jurisdiction of Civil Court barred as regards matters arising under this Act.

23. No suit or other legal proceedings shall be maintained in respect of the exercise of any powers or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Public ser-
vants indem-
nified for
acts done
under this
Act.

24. The Financial Commissioner may, at any time for the purpose of satisfying himself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as he thinks fit :

Power to call
for and
examine
records.

Provided that he shall not vary or reverse any order without having given to the parties interested notice to appear and to be heard in support of such order.

25. Save as provided in this Act, no appeal or revision shall lie from any order passed under this Act or the rules made thereunder.

No appeal
except under
section.

26. (1) The ¹[Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

Power to
make rules. .

1. Omitted by S. 5. of the Punjab Act II of 1945.

2. Substituted for the words "Local Government" by the Government of India (Adaptation of Indian Laws) Order, 1937.

(2) In particular and without prejudice to the generality of the foregoing power, the ¹[Provincial Government] may make rules—

- (a) prescribing the minimum area of land to be held by the persons making an application under sub-section (1) of section 3.
- (b) providing for the particulars to be contained in any application made under section 3;
- (c) providing for the procedure to be followed by the consolidation officer in dealing with applications for the consolidation of holdings and for the *appointment and constitution of an advisory committee or panchayat to assist the consolidation officer in the examination or preparation* of the scheme;
- (d) providing for the manner in which the costs of the consolidation proceedings shall be assessed;
- (e) providing for the appointment of guardians *ad litem* for minors;
- (f) for determining the market value of lands and the compensation to be paid therefor under section 8;
- (g) for the guidance of the consolidation officer in respect of the transfer of incumbrances and leases; and
- (h) generally for the guidance of the consolidation officer and other officers and persons in all proceedings under this Act;

Provided that before making any rules under the provisions of this section the ¹[Provincial Government] shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be effected thereby at least thirty days before a meeting of the Punjab Legislative ²[Assembly]. The ¹[Provincial Government] shall defer consideration of such rules until after the meeting of the Punjab Legislative ²[Assembly] next following the publication of the draft, in order to give any member of the ²[Assembly], an opportunity to move a motion regarding the proposed rules.

1 of 1898.

¹Substituted for the words "Local Government" by the Government of India. (Adaptation of Indian Laws) Order, 1937.

²Substituted for the word "Council" by the Government of India (Adaptation of Indian Laws) Order, 1937.

THE PATIALA AND EAST PUNJAB STATES UNION HOLDINGS (CONSOLIDATION AND PREVENTION OF FRAGMENTATION) ACT, 2007.

(No. V of 2007.)

AN ACT

to provide for the consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in the State of Patiala and East Punjab States Union,

Whereas it is expedient to provide for the consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in the State of Patiala and East Punjab States Union ;

It is hereby enacted as follows :—

— — — — —

CHAPTER I—PRELIMINARY.

1. (1) This Act may be called the Patiala and East Punjab States Union Holdings (Consolidation and Prevention of Fragmentation) Act, 2007.

Short title
extent and
commencement.

(2) It extends to the whole of the State of Patiala and East Punjab States Union.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force in such area and from such date as the Government may by notification appoint in this behalf, and different dates may be appointed for the coming into force of different provisions of the Act.

2. (1) In this Act, unless there is anything repugnant in the subject or context.

Interpreta-
tion.

(a) “Consolidation Officer” means an officer appointed by the Government under section 14, and includes any person authorised by the Government to perform all or any of the functions of the Consolidation Officer under this Act ;

(b) “Consolidation of Holdings” means the amalgamation and the redistribution of all or any of the lands in an estate or sub-division of an estate so as to reduce the number of plots in the holdings ;

(c) “fragment” means a plot of land being in area less than the appropriate standard area :

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvian ;

(d) "Government" means the Government of the State of Patiala and East Punjab States Union ;

(e) "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture, or for pasture and includes the sites of buildings and other structures on such land ;

(f) "notified area" means any area notified under section 3 ;

(g) "owner" means—

(i) in the case of unalienated land, the lawful occupant thereof and if such land is mortgaged, the mortgager,

(ii) in the case of alienated land, the superior holder ;

(h) "prescribed" means prescribed by rules made under this Act ;

(i) "Settlement Officer (Consolidation)" means an officer appointed by the Government under section 19 and includes any person authorised by the Government to perform all or any of the functions of the Settlement Officer (Consolidation) under this Act ;

(j) "standard area" in respect of any class of land means the area which the Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular notified area and includes a standard area revised under the said section ;

(k) "sub-division" means a part of an estate recorded as a sub-division, *patti*, *tarf* or *pana* in a record of rights prepared under section 31 of the Punjab Land Revenue Act, 1887, (XVII of 1887) ; provided it forms a compact block ; VII of 1887.

(l) "tenant" means a tenant other than an occupancy tenant ; and

(m) words and expression used in this Act but not defined, have the meaning assigned to them in the Punjab Land Revenue Act, 1887. VII of 1887.

(2) Any reference in this Act to any Indian or Punjab Act shall be construed as a reference to that Act as in force *mutatis mutandis* in this State.

**CHAPTER II—DETERMINATION OF STANDARD AREAS AND
TREATMENT OF FRAGMENTS.**

3. The Government may, after such inquiry as it deems fit specify any estate or sub-division of an estate as a notified area for the purposes of this Chapter of this Act.

Determination of notified area.

4. (1) The Government may, after such inquiry as it deems fit, provisionally settle for any class of land in any notified area the minimum area that can be cultivated profitably as a separate plot.

Settlement of separate plots.

(2) The Government shall by notification and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections in respect thereof.

5. (1) The Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the estate concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such notified area.

Determination and revision of standard areas.

(2) The Government may, at any time, if it deems fit it expedient so to do, revise a standard area determined under sub-section (1) :

Provided that such revision shall be made in the manner laid down in section 4 and sub-section (1).

(3) The Government shall, by notification and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

6. (1) As from the notification in any notified area of a standard area under sub-section (3) of section 5, all fragments in that notified area shall be entered as such in the record of rights.

Entry in the record of rights.

(2) Notice of every entry made under sub-section (1) shall be given in the prescribed manner.

7. (1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

Restriction on transfer and lease of fragment.

(2) Notwithstanding anything contained in the Punjab Tenancy Act, 1887 (XVI of 1887), no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

Fragmentation prohibited

8. No land in any notified area shall be transferred or partitioned so as to create a fragment.

Penalty for transfer or partition contrary to provisions of Act.

9. The transfer or partition of any land contrary to the provisions of this Act shall be void.

Valuation of fragment.

10. Any owner of a fragment who intends to sell it shall make an application in this behalf to the Collector for determination of its market price and the Collector shall, after hearing the applicant and the owners of the contiguous survey numbers or recognized sub-divisions of survey numbers, determine the market price, and such determination shall be final and conclusive for the purposes of this Chapter.

Transfer of fragment.

11. The owner referred to in the preceding section shall in the first instance offer the fragment for sale to the owners of contiguous survey numbers or recognized sub-divisions of survey numbers, and in case of their refusal to purchase for the price as determined under the last preceding section may transfer it to the Government for the purpose of the State on payment by the Government of such price as aforesaid to persons possessing interest therein as the Collector may determine, and thereupon the fragment shall vest absolutely in the Government for the purpose of the State free from all encumbrances.

Partition of state assessed to payment of revenue to Government or separation of share thereof.

12. When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908 (V of 1908) for the partition of an undivided estate assessed to the payment of revenue to the Government in any notified area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to leave a fragment.

V of 1908.

Government or local authority not to acquire land so as to leave fragment.

13. (1) Notwithstanding anything contained in any law for the time being in force, no land shall be acquired by the Government or any local authority or sold at any sale held under the orders of any court so as to leave a fragment.

(2) If any land acquired by the Government or any local authority is in excess of its requirements it shall be offered for sale in the first instance to the owners of contiguous survey numbers or recognised sub-divisions of survey numbers at the same price at which it was acquired under sub-section (1).

CHAPTER III—CONSOLIDATION OF HOLDINGS.

14. (1) With the object of consolidating holdings in estate or group of estates or any part thereof for the purpose of better cultivation of lands therein, the Government may of its own motion or on application made in this behalf, declare by notification and by application in the prescribed manner in the estate or estates concerned its intention to make a scheme for the consolidation of holdings in such estate or part thereof as may be specified.

Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

(2) On such publication in the estate concerned the Government may appoint a Consolidation Officer who shall after obtaining in the prescribed manner the advice of the landowners of the estate or estates concerned, prepare a scheme for the consolidation of holdings in such estate or estates or part thereof as the case may be.

15. (1) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

Scheme to provide for compensation.

IV of 2006.

(2) The amount of compensation shall be assessed by the Consolidation Officer, so far as practicable, in accordance with the provisions of sub-section (1) of section 24 of the Patiala and East Punjab States Union Land Acquisition Act, 2006 (No IV of 2006).

16. (1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes with any holding in the scheme he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purpose, shall be extinguished or, as the case may be transferred to a new road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes laid out in the scheme of consolidation.

Amalgamation of Public roads, etc., within scheme for consolidation of holdings.

(2) The declaration in sub-section (1) shall be published in the estate concerned in the prescribed manner along with the draft scheme referred to in section 18.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes or having any other interest or right which is likely to be adversely affected by the proposal

may; within thirty days after the publication of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right :

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be entertained.

(4) The Consolidation Officer shall, after considering the objections if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Officer (Consolidation), together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Officer (Consolidation) on the proposal and regarding the amount of compensation and the persons by whom such compensation if any, is payable, shall be final.

17. Notwithstanding anything contained in any law for the time being in force it shall be lawful for the Consolidation Officer to direct—

- (a) that any land specifically assigned for any common purpose shall cease to be so assigned and to assign any other land in its place.
- (b) that any land under the bed of a stream or torrent flowing through or from the Siwalik mountain range within the State shall be assigned for any common purpose ;
- (c) that if in any area under consolidation no land is reserved for any common purpose including extension of the village abadi, or if the land so reserved is inadequate, to assign any other land for such purpose.

Lands reser-
ved for com-
mon pur-
poses.

18. (1) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the estate or estates concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer shall, after considering the objections if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Officer (Consolidation).

Publication
of draft
scheme.

(2) The Consolidation Officer shall also publish in the prescribed manner the scheme as amended by him.

Confirmation of scheme. 19. (1) The Government may by notification appoint one or more persons to be Settlement Officers (Consolidation) and by like notification, specify the area in which each such officer shall have jurisdiction. The Consolidation Officer in the area under the jurisdiction of the Settlement Officer (Consolidation) shall be subordinate to him subject to any conditions which may be prescribed.

(3) If no objections are received to the draft scheme published under sub-section (1) or within thirty days of its publication to the amended draft scheme published under sub-section (2) of section 18, as the case may be, the Settlement Officer (Consolidation) shall confirm the scheme.

(3) If objections are received to the amended draft scheme published under sub-section (2) of section 18, the Settlement Officer (Consolidation) shall, after taking the objections into consideration, either confirm the scheme with or without modifications or refuse to confirm it.

(4) Upon the confirmation of the scheme under sub-section (2) or (3) the scheme as confirmed shall be published in the prescribed manner in the estate or estates concerned.

Repartition. 20. (1) The Consolidation Officer shall after obtaining the advice of the land owners of the estate or estates concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 19, and the boundaries of the holdings as demarcated shall be shown on the shajra which shall be published in the prescribed manner in the estate or estates concerned.

(2) Any person aggrieved by the repartition may file a written objection within fifteen days of the publication before the Consolidation Officer who shall after hearing the objecter pass such orders as he considers proper confirming or modifying the repartition.

(3) Any person aggrieved by the order of the Consolidation Officer under sub-section (2) may within one month of that order file an appeal before the Settlement Officer (Consolidation) who shall after hearing the appellant pass such order as he considers proper.

(4) Any person aggrieved by the order of the Settlement Officer (Consolidation) under sub-section (3) may within sixty days of that order appeal to the Government. The order of the Government on such appeal, and subject only to such order the order of the Settlement Officer (Consolidation) under sub-section (3) or, if the order of the

Consolidation Officer under sub-section (2) was not appealed against, such order of the Consolidation Officer, shall be final and shall not be liable to be called in question in any court.

Preparation
of record of
rights.

21. (1) The Consolidation Officer shall cause to be prepared a new record of rights in accordance with the provisions contained in Chapter IV of the Punjab Land Revenue Act, 1887 (XVII of 1887) in so far as these provisions may be applicable, for the area under consolidation, giving effect to the repartition as finally sanctioned under the preceding section.

XVII of
1887.

(2) The record of rights prepared under sub section (1) shall be deemed to have been prepared under section 32 of the Punjab Land Revenue Act, 1887 (XVII of 1887).

XVII of
1887.

Right to
Possession
of new hold-
ings

22. (1) If all the owners and tenants affected by the scheme of consolidation or, as the case may be, repartition as finally confirmed, agree to enter into possession of the holdings allotted to them thereunder the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners and tenants as aforesaid do not agree to enter into possession under sub-section (1) they shall be entitled to possession of the holdings and tenancies allotted to them from the commencement of the agricultural year next following the date of the publication of the scheme under sub-section (4) of section 19, or, as the case may be, of the preparation of the new record of rights under sub-section (1) of section 21, and the Consolidation Officer shall, if necessary, put them in physical possession of the holding to which they are so entitled, including standing crops, if any, and for doing so may exercise the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887, (XVII of 1887).

XVII of
1887.

(3) If there are standing crops on any holding of which possession has been given under sub-section (2) the Consolidation Officer shall determine in the prescribed manner the compensation payable in respect of such crops by the person put in possession, who shall, within six months of the date of possession, pay such compensation to the person or persons from whom possession was transferred, and in case of default such compensation shall be recoverable from him as an arrear of land revenue.

(4) If any person from whom compensation is recoverable under the scheme fails within 15 days of the commencement of the agricultural year referred to in sub-section (2) to deposit such compensation in the prescribed manner, it shall be recoverable from him as an arrear of land revenue, and in such case the amount realised after deducting the expense, shall be paid to any person having interest in the holding.

23. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force. Coming into force of scheme.

24. A landowner or a tenant at will shall have the same right in the land allotted to him in pursuance of the scheme of consolidation as he had in his original holding or tenancy as the case may be. Right of landowners and tenants after consolidation to be same as before. Encumbrances of landowners and tenants.

25. (1) If the holding of a landowner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the Consolidation Officer, subject to any rules that may be made under section 45, may have determined in preparing the scheme; and there-upon the lessee, mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred. Encumbrances of landowners and tenants.

(2) If the holding or tenancy to which a lease, mortgage, or other encumbrance is transferred under sub-section (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrancer, as the case may be, shall subject to the provisions of section 33 be entitled to the payment of such compensation by the owner of the holding, or as the case may be, the tenant as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 22, the Consolidation Officer shall if necessary put any lessee or any mortgagee or other encumbrancer entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage or other encumbrance has been transferred under sub-section (1).

26. Notwithstanding anything contained in the Punjab Land Revenue Act, 1887, and the Punjab Tenancy Act, 1887, the rights and liabilities of landowners in their holdings of tenants in their tenancies shall for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose. Transfer of rights of landowners in holdings and of tenants in tenancies.

27. The cost of consolidation proceedings shall be assessed in the prescribed manner and shall be recovered from the person whose holdings are affected by the scheme of consolidation. Cost of consolidation proceedings.

Recovery of Compensation or cost or other sums payable under this Act.

Transfer of property during consolidation proceedings.

Transfer not affected by Patiala Alienation of Land Act, 1972.

Suspension of partition proceedings during currency consolidation proceedings.

No instrument necessary to effect transfer.

Apportionment of net value in case of dispute.

28. Compensation under section 15 or costs under section 27 or any other, sums payable under this Act shall be recoverable as an arrear of land revenue.

29. After a notification under sub-section (1) of section 14 has issued and during the pendency of the consolidation proceedings no landowner upon whom the scheme will be binding shall have power without the sanction of the Consolidation Officer to transfer or otherwise deal with any portion of his original holding so as to affect the rights of any other landowner under the scheme of consolidation.

30. Notwithstanding anything contained in section 3 of the Patiala Alienation of Land Act, 1972 Bk., no exchange of land by a member of an agricultural tribe in pursuance of a scheme of consolidation holdings shall require the sanction of the Deputy Commissioner under that Act.

31. After a notification under sub-section (1) of section 14 has been issued no proceedings under Chapter IX of the Punjab Land Revenue Act, 1887, in respect of any estate or a sub-division of an estate which will be affected by the scheme of consolidation shall be commenced, and such proceedings pending shall remain in abeyance during the pendency of the consolidation proceedings.

32. Notwithstanding anything contained in any law for the time being in force—

- (a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings, and
- (b) no instrument, if executed, shall require registration.

33. Where there is a dispute in respect of the apportionment of—

- (a) the amount of compensation determined under sub-section (2) of section 15, or sub-section (4) of section 16;
- (b) the net value realised under sub-section (4) of section 22;
- (c) the total amount of compensation determined under sub-section (2) of section 25;

the Consolidation Officer shall refer the dispute to the decision of the Civil Court and deposit the amount of compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 34, 55 and 56 of Patiala and East Punjab States Union Land Acquisition Act, 2006 (IV of 2006), shall, so far as may be, apply.

34. In any estate or group of estates or any part thereof where consolidation of holdings has been effected under this Chapter, the Government shall, as soon as may be, take all necessary steps to apply the provisions of Chapter II.

Application of Chapter II to consolidated holdings.

35. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

Powers to vary or revoke scheme.

CHAPTER IV.—OTHER POWERS OF CONSOLIDATION OFFICERS.

36. The Consolidation Officer and any person acting under his orders may, in the discharge of any duty under this Act, enter upon and survey land and erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for the proper performance of that duty.

Power of officers to enter upon land for survey and demarcation.

37. (1) If any person wilfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Consolidation Officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured, or removed, as may, in the opinion of that officer, be necessary to defray the expenses of restoring the same and of rewarding the person, if any, giving information of the destruction, injury or removal.

Penalty for destruction, injury in removal of survey marks.

(2) The imposition of a fine on any person under this section shall not debar his prosecution under section 434 of the Indian Penal Code (XLV of 1860).

38. Every village officer of an estate shall be legally bound to furnish to a Consolidation Officer information respecting the destruction or removal of or any injury done to, any survey mark lawfully erected in the estate.

Report of destruction or removal or injury to survey mark.

39. (1) A Consolidation Officer or a Settlement Officer (Consolidation) may summon any person whose attendance he considers necessary for the purpose of any business before him as a Consolidation Officer or a Settlement Officer (Consolidation)

Power of Consolidation Officer or Settlement (Consolidation) Officer to summon persons.

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or if the summons so allows, by his recognised agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or make statements and to produce such documents and other things relating to any such matter as the Consolidation Officer or the Settlement Officer (Consolidation) may require.

CHAPTER V.—GENERAL.

Appointment of Officers and staff and delegation of powers.

40. (1) The Government may for the administration of this Act, appoint such persons as it thinks fit, and may by notification delegate any of its powers or functions under this Act to any of its officers either by name or designation.

(2) A Consolidation Officer or a Settlement Officer (Consolidation) may, with the sanction of the Government delegate any of its powers or functions under this Act to any person in the service of the Government.

Power of Government to call for proceedings.

41. The Government may, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act, call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit :

Provided that no order shall be varied or reversed without affording the parties interested an opportunity of being heard.

Appeal and revision.

42. Except as provided in this Act no appeal or revision shall lie from any order passed under this Act.

Jurisdiction of civil court barred as regards matters arising under this Act.

43. No civil court shall entertain any suit instituted or application made, to obtain a decision or order in respect of any matter which the Government or any officer is, by this Act, empowered to determine decide or dispose of.

Public servants indemnified for acts done under this Act.

44. No suit or other legal proceedings shall be maintained in respect of the exercise of any powers or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

Rules.

45. The Government may by notification make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules providing for—

(a) the manner of publication under sub-section (2) of section 4, sub-section (1) of section 14, sub-sections (1) and (2) of section 18, sub-section (4) of section 19 and sub-section (1) of section 20 ;

(b) the manner of giving public notice under sub-section (3) of section 5 ;

(c) the manner of giving notice under sub-section (2) of section 6 ;

- (d) the procedure to be followed in the preparation of the scheme under sub-section (2) of section 14 ;
- (e) the manner in which the area is to be reserved under section 17 and the manner in which it is to be dealt with and also the manner in which the village abadi is to be given to proprietors and non-proprietors (including scheduled castes, artisans and labourers) on payment of compensation or otherwise ;
- (f) the manner in which compensation recoverable from any person under sub-section (3) of section 22 shall be deposited by him ;
- (g) the guidance of the Consolidation Officer in respect of the transfer of a lease, mortgage or other encumbrance under section 25 ;
- (h) the manner in which the area and assessment (including water-rate, if any) of each reconstituted holding and tenancy shall be determined ;
- (i) the appointment of guardians *ad litem* for minors ;
- (j) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act ; and
- (k) any other matter which is to be or may be prescribed.

(3) All Rules made under this section shall be subject to the conditions of previous publication.

46. (1) The Patiala Consolidation of Holdings Act, 2004, is hereby repealed.

(2) Notwithstanding anything in sub-section (1), any action or proceeding taken or commenced under the Act hereby repealed shall be deemed to have been taken, commenced or continued under the corresponding provisions of this Act.

Repeal

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